Research and Current Issues
Series No. 52

Overtime: Legislative and Collective Bargaining Issues

J. David Arrowsmith

Published by
Industrial Relations Centre, Queen's University
1988

89-04828/

ISSN: 0317-2546
ISBN: 0-88886-196-6
© 1988, Industrial Relations Centre
Printed and bound in Canada.

Industrial Relations Centre
Queen's University
Kingston, Ontario, Canada
K7L 3N6
613 545-2193

Canadian Cataloguing in Publication Data

Arrowsmith, David
Overtime

(Research and current issues series ; no. 52)
Bibliography: p.
ISBN 0-88886-196-6

1. Overtime - Canada. 2. Overtime - Europe.
3. Overtime - Law and legislation - Canada.
4. Overtime - Law and legislation - Europe.
I. Queen's University (Kingston, Ont.). Industrial Relations Centre.
II. Title. III. Series.

HD5111.C3A77 1988 331.25'72'0971 C88-093693-2

Contents

I **Introduction** 1

II **The Overtime Environment: Concepts, Issues and Trends** 3
Concepts 3
Issues 5
Statistical Profiles and Sources 9

III **The Overtime Debate: Management v Union, The Ontario Task Force on Hours of Work and Overtime** 24
Introduction 24
The Management Consensus and Selected Summaries 26
The Union Consensus and Selected Summaries 36
Recommendations of the Task Force 46

IV **Canadian Legislation** 49
Hours of Work and Overtime 53
Federal Legislation on Overtime Permits 62

V **Collective Bargaining, Overtime and Arbitration** 65
Scope of Overtime Provisions 65
Arbitration Cases 69
Overtime and Related Provisions: Sample Clauses 79
Some Guidelines to Overtime Provisions 87

VI **The International Developments on the Issue of Overtime** 91
Legislation and Overtime Regulation in European Countries 91
West Germany 95
France – The Giraudet Report 96
European Economic Community – Limiting Overtime 97
Denmark – Proposed Limits on Overtime Working 98
Great Britain 99
Union Positions 103
Overtime Regulation in Selected Industrialized Countries, 1986 104

VII Selected Annotations of Articles, Books and Reports of Interest 110

VIII Selected References 118

Appendix List of Public Submissions to the Ontario Task Force on Hours of Work and Overtime 125

I

Introduction

The issue of overtime has at no time been more in the forefront than at the current time. The recession of 1981-1982 has left its mark by increasing (1) union sensitivity to unemployment possibilities and job security issues in a downsizing environment, and (2) management sensitivity to production costs such as employment (overhead, training, severance, benefits, etc.). The European community has been responding to unemployment problems for much longer, partly due to a more mature collective bargaining environment and a more socially, economically and politically aware society. The North American response has not developed to the same extent as the European countries. However, both North America and Europe face similar problems. Both union and management face dichotomies. The union is presented with individual members preferring to perform overtime (where it is not excessive) in order to gain the extra income, while the membership as a whole wants reduced work hours and controlled overtime hours in order to protect workers' jobs and to increase employment and therefore union membership. The union is in a difficult position in that it must represent the membership's individual desires while also representing the social policies which benefit the labour movement as a whole. Management perceives both positive and negative consequences of overtime; positive in that short-run demand fluctuations can be met at short notice, but also negative in terms of the extra cost, usually time and one-half or double time. (However, recent studies have indicated that increased rates of overtime pay are not a deterrent to its use). In response to social, political and economic pressures, the Ontario Government appointed a Task Force on Hours of Work and Overtime. One priority was the study of job creation measures under legislative constraints on overtime work.

The purpose of this paper is to present the issues and implications of the overtime debate through a review of legislative standards in Canada and selected European countries, and of overtime clauses and the collective agreement with special emphasis on arbitration cases, a statistical overview of overtime provisions and of the extent of overtime usage, a presentation of the submissions to the Ontario Task Force on Hours of Work and Overtime, and reviews of some major studies on overtime use.

Section II covers some of the concepts and issues of overtime, such as the basic definitional framework, health issues, how overtime relates to exempted employees, some alternative solutions and a summary of data and data sources.

Section III is concerned with the Ontario Task Force on Hours of Work and Overtime, otherwise known as the Donner Commission. The section presents the mandate of the commission, the concensus of management and of unions, summaries of selected submissions to the commission, and the recommendations of the Task Force. Also included is a list of all the submissions to the commission. (For a summary of the Task Force publication see the Annotations section of this paper.)

Section IV presents the Canadian legislative framework under federal and provincial jurisdictions, covering hours of work and overtime (hours and rates) legislation. The discussion covers standard hours of work, hours for which or beyond which overtime rates must be paid, occupations excluded from legislation, and provision for overtime beyond the overtime hours maximum and the criteria to be met. The section concludes with sample legislation from the federal sector covering permits for overtime work.

Section V considers overtime in the context of collective bargaining and arbitration, that is, the scope of overtime provisions. The wording and content of provisions related to overtime are discussed, including such issues as contacting out, pyramiding, scheduling rights, and distribution of overtime. Next, a complete case summary is presented, followed by selected arbitration case summaries which cover a wide range of overtime issues. And finally sample clauses from selected collective agreements in various industries and some guidelines are presented.

Section VI covers the European scene. First, the legislative background is discussed and compared to Canada. Then the legislative initiatives are presented along with the positions of the various trade unions. Third, various reports on such countries as West Germany, France, and Great Britain are summarized. In particular, the various remedies initiated in the collective bargaining arena are focused on. The section concludes with a summary table on overtime regulation in industrialized countries which was prepared by the International Labour Office. The final sections contain annotations of articles, books and studies on overtime issues, and a compilation of selected references on overtime.

II

The Overtime Environment: Concepts, Issues and Trends

This section summarizes some of the concepts necessary for understanding the question of overtime use, some of the apparent alternatives to overtime and some of the issues that have arisen recently. The section concludes with a brief presentation on the trends of overtime-related provisions and on the state of overtime in 1985, followed by a discussion of sources of data.

Concepts

The basic theory of premium rates of pay for overtime evolves from the economic principle that persons must be paid a higher rate of pay to induce them to work longer hours. The premium compensates for the additional increase in value of the extra hour not used as leisure. "Value" may be interpreted as meaning the sum of monetary and non-monetary (e.g. stress) factors. Where overtime is voluntary and a worker works no overtime hours in spite of a substantial premium on the time, the worker is considered overemployed at the existing rate of pay the employee would prefer fewer hours of work and would probably support shorter work week legislation. The employee may also exhibit absenteeism and tardiness as means of reducing the real work week (Gunderson, 89). If a worker works longer hours at the same overtime premium it is not possible to state the worker is overemployed. Of course in the presence of mandatory overtime provisions we cannot determine either characteristic.

There are a number of types of overtime. Economic overtime is defined as overtime performed to meet a demand for goods or services which cannot in the short term be met by working normal hours. This is the most commonly recognized type of overtime and, as such, has regulations related to it which assume emergency or exceptional circumstances. The original use of overtime was for flexibility to enable employers to meet rush orders and also return easily to normal working hours. However, there have been substantial reductions in flexibility as overtime hours have become not exceptional but normal circumstance.

Another type of overtime occurs when there is a manpower shortage of persons with specific skill requirements. This type of overtime usually is required over the short to medium term as the firm adapts new processes and methods to increase the productivity of the particular worker(s) and thereby eliminate overtime hours in the long run. Eventually the increased productivity reduces the normal hours of work, which has occurred in selected occupational groups in the last decade or so.

It is also common, in industries where overtime is popular with the workers and there is high demand for certain workers, to offer overtime to employees in order to retain the workers. In the United Kingdom many firms emphasize the weekly earnings secured with customary overtime when they advertise for workers (Evans, 100).

Finally, overtime is a substitute for new hires and is significantly cheaper under specific circumstances. The costs of recruitment, training, benefits, overhead, and dismissal are the major costs on which the argument for overtime is made, especially if the new hire has a relatively high probability of being declared redundant.

Generally speaking, workers prefer to work non-regular overtime, and a particular interpretation of the push toward shorter work weeks is that the difference between the present work week and the preferred work week is in fact regarded by the worker as regular overtime. However, on the other hand, workers realise that overtime hours constitute an uncertainty and that management is not required to offer overtime. Reliance on systematic overtime can then be detrimental to the worker if a recession occurs and overtime is eliminated.

One important aspect of the overtime issue is the suggestion that where longer work days are fairly consistent a standard workday should be extended and the equivalent weighted average (by hours) of the straight time and overtime rate of pay should become the new pay rate. In economic analysis, this weighted average method would necessarily reduce employment at the firm. This would be contrary to the union objective of increased employment.

In the present situation there is an international movement toward a shorter work week in order to reduce both unemploymentandovertime use. The problems manifested are threefold. One is that demands for shorter work weeks in industries where workshifts occur may not be resolvable under the current inflexible nature of the industry—current legislative restraints may make it impractical. The second is that the proposals by unions tend to prefer reduced hours with no reduction in total pay (reduction from a 40 hour to a 37.5 hour work week is in effect a 6.7 percent wage rate increase to workers and may result in an increase in the total wage bill by 6.7 percent while apparently increasing employment by 6.7 percent). The problems inherent in this situation might be solved using a combination of flexible work schedules and flexible daily hours of work. The third problem stems from the assumed requirement that new workers must be hired to maintain production levels regardless of the increase in payroll costs. For example, in order to hire a new worker under a decrease in working time such as the one given above, the number of similar jobs worked must be about 15 (15 jobs at 40 hours is equivalent to 16 jobs at 37.5 hours). If average hours are reduced to 35 hours from 40 then only 7 employees with similar jobs are necessary. It must also be recognized that a reduction in working hours per week is merely an average of hours per week over a period of time, i.e. a worker could put in equal numbers of weeks at 40 and 30 hours to make up an average 35 hour week.

Issues

Alternative Solutions – Alternative Work Schedules

One of the apparent solutions to the overtime issue and possibly the hours of work/unemployment problem is the development of alternate work schedules or alternative work patterns (AWP). There are four basic types of AWP's: flextime or flexible work hours; permanent part-time employment including job sharing; the compressed work week; and reduced worktime including worksharing. In definitional terms, AWP's are innovations in the area of work scheduling practices which present management and labour with alternatives to the standard forty-hour, five-day work week. Alternatives in work scheduling may be applied in one or all of three areas: the timing of hours of work; the duration of hours of work; and/or employee control over his or her own schedule (Alternative Work Patterns Project, 142).

Flextime is an arrangement under which the employee has a choice on working hours subject to the constraint of a specified number of hours within a specific term. Usually there is a set core time when the employee must be present. Furthermore, it is possible to bank hour credits for future changes so long as the employee is present during the core hours. Alternatively, hours may be fixed but starting and stopping times may be staggered. A number of positive reasons for flextime are: increased societal involvement, avoiding rush hour (stress reduction), increased productivity by working at most productive time, increased employment opportunities. Permanent part-time employment is regular, voluntary employment involving at least prorated benefits, seniority, and upward mobility, which differentiates from temporary or casual labour. A particular form of permanent part-time employment is job sharing, in which one of the two employees are on the job at any time, i.e. it is a deliberate conversion of a full-time position into part-time work. Compressed work weeks usually involve four ten-hour days or three thirteen-hour days. Reduced worktime or worksharing involves work spread among existing employees to avoid layoffs or create employment. There are a number of alternatives: shortened work days and shortened work weeks in which employees work fewer hours with no pay reduction; the shortened workyear which involves increased vacation and holidays; and short-time compensation where employees work fewer hours for less pay but with partial replacement of lost income.

A recent paper, *New Work Schedules for a Changing Society* (Works in American Institute), notes that the key problem for union leadership has been protecting workers in flextime plans from breaches in collectively bargained overtime agreements. Under flextime programs allowing daily debits and credits of time worked, union leaders fear that employees may be subtly pressured into working late without receiving overtime. Despite restrictions in law and collective bargaining agreements, several local unions have found ways of instituting more favourable work schedules without giving up protection against abuses of overtime. In California, local 21 of the International Federation of Professional and Technical Employees instituted a plan with an 80-hour pay period, defining overtime as work that is (1) requested by a supervisor, (2) requires an employee to exceed the normal daily hours (which can be any eight between 7.00 a.m. and 6.00 p.m.), and (3) causes the employee to work more than 80 hours in one pay period. Other unions have adapted to flextime and compressed work weeks by waiving rules requiring overtime after eight hours per day in favour of weekly or biweekly cutoff points and/or defining overtime as work requested by the employer. In addition a number of continuous-process plants, which have adopted rotas based on 12-hour shifts, still pay overtime for hours exceeding eight per day, but reduce base rates in order to make weekly earnings come out the same as before.

Exempted Employees

The ideal company setup is one in which the overtime problem is not a problem through thoughtful work scheduling and effective job evaluation (one that maintains a pay differential between production workers and their supervisors). One of the issues related to this is the situation of exempted employees such as salaried professionals, middle management, and first line supervisors. Many firms are in fact opposed to the concept of overtime payments to exempt personnel because such persons are generally paid for their long-term contribution to the company. However, when the extra work is scheduled in four or eight hour blocks some organizations do pay straight time for authorized overtime work. The problem occurs when overtime is required by production workers and supervisors. If the supervisors are not remunerated sufficiently higher than production workers and receive no overtime premium then production workers may actually earn more than the supervisors. Furthermore, in the case of specialists, such as financial managers, companies must compensate them sufficiently to prevent them from leaving the company. It may be interpreted that while the company doesn't pay overtime explicitly, the salary includes compensation for future work and the bonus system in part accounts for past hours worked. The differences in means of payment between exempted and nonexempted employees account for the visiblity of overtime payment.

Example of Overtime Policy for Exempted Employees

It is the intention of management to pay overtime to certain exempted employees for all hours worked over to the standard 40-hour work week schedule. After careful consideration of the many factors involved, management is hereby establishing an overtime policy by which overtime will be paid to exempt employees under the following conditions:

1. The overtime must be planned, if scheduled, and previously authorized by those with authority to approve it.
2. It amounts to at least two hours or more in any one day, or it is performed on Saturdays, Sundays, or holidays. Work performed on Saturdays or Sundays must be in excess of the standard 40-hour work week.
3. Payments for scheduled overtime will be as follows:
   - i) 1.5 times salaries of up to $548 per week.
   - ii) Straight time plus $6.85 per hour on salaries over $548 per week but less than $800 per week.
   - iii) Those employees earning $800 per week or more will not receive overtime compensation.
   - iv) If an exempt employee loses any time due to illness, injury, or extreme emergency, during a week in which he has performed work, he will receive full base pay for that week plus compensation for all overtime properly authorized and actually worked.

For a comparison of U.S. exempted employees' pay practices see Weeks and Teague.

Health and Efficiency

The evidence from the U.S. study *Hours of Work in Relation to Health and Efficiency* indicated that excessive hours of work reduce an individual's capacity for work and that in the absence of organic impairment the reduced capacity for work can be said to be the result of fatigue. The study was both industrial and biological in scope and attributed increased susceptibility to disease and morbid psychological manifestations to the fatigue. The investigations showed that shorter hours of work "increase output relatively and, frequently, absolutely, and improve the quality of work while at the same time accidents, lost time and illness are reduced." The study indicates that the measurable effects of fatigue differ quantitatively depending on the nature of the work, being greater in work involving more of the human element and less machine work.

Evidence gathered from many case studies indicated fewer hours worked correlated directly with lower illness rates. The study noted that determination of optimum work hours involved several considerations. In total, their analysis showed that the optimum hours of work should consider not only maximizing efficiency but also such factors as the effect on the family of lower or higher wages as a result of fewer or more hours of work.

Bonus Pay-Overtime Controversy

(From *What's new in ... Collective Bargaining Negotiations and Contracts* (BNA), April 10, 1986). A dispute over the effect of lump-sum bonus payments on overtime calculation is stirring in the paper industry. The United Paperworkers International Union has become impatient because the Labor Department's Employment Standards Administration has failed to issue an opinion letter on whether lump-sum bonuses, as the union contends, must be factored into base pay for the purpose of computing overtime payments under the Fair Labor Standards Act (FLSA). The union has apparently been waiting for more than a year and wants to know the government position in order to make an informed choice on whether to take the agency to court.

Employers view bonuses as an attractive alternative to wage increases because they do not increase the cost of other contract provisions tied to base pay. For this same reason, unions are opposed to bonus provisions.

The union claims the payments are "nondiscretionary" and as such should be factored into base rates for calculating overtime pay. Under the FLSA, "discretionary" bonuses are generally excludable from regular rates for overtime pay purposes.

The controversy started in late 1984 when the International began receiving inquiries from its locals concerning how lump-sum payments were to be treated for overtime purposes. The union began filing grievances over the issue and filed complaints against employers at regional Wage-Hour Division offices around the country and the directors of the offices were issuing conflicting interpretations on how to handle the complaints.

A typical lump-sum bonus in the paper industry calls for an up-front cash payment of $500 to be made to employees on or shortly after contract ratification. The union says the payment should be broken down at the end of the first contract year into a cents-per-hour amount by dividing $500 by the number of hours an employee worked. That figure would then be added to the base rate for the purpose of recalculating payment for overtime already worked.

Overtime Pay: Avoiding FLSA Violations (From Ameci, 117-118)

The United States Fair Labour Standards Act was passed in 1938 and according to the author of the article, it has outgrown its intended purpose – to increase employment as a result of financial pressure and to compensate fairly employees who worked a minimum of 12 hours per day. Both employers and employees can now be satisfied with the company compensation program and still violate the FLSA due to the complicated nature of overtime provisions in the FLSA. Compliance has been increasingly more difficult in recent years as pay systems have become linked to performance of the employee and the company. Incentive bonuses, productivity bonuses, etc. have increased compensation and therefore the employer's potential liability to overtime. Incentives must be included in the regular rate of pay when computing overtime. The Act "requires the inclusion in the regular rate of *all* compensation for employment except seven specified payments: gifts, Christmas bonuses, special occassional bonuses, payments made to profit sharing plans, thrift plans, savings plans and irrevocable contributions made to a bona fide trust" (Ameci, 118). For a bonus to be excluded as being discretionary, the employer must retain the discretion of the amount and the fact of the payment. Once the payment is periodic or induces a work pattern, discretion is abandoned and the payment must be included in calculation of overtime rates. Thus, bonuses or commissions measured by hours, production or efficiency are geared to wages and therefore are not discretionary. The employer may therefore elect to pay bonuses on the basis of total compensation (straight and overtime) thereby including automatically overtime hours.

Statistical Profiles and Sources

Overtime Provisions

In Table 1 nine provisions related to the issue of overtime are presented by industry and sector for 1986 and Table 2 provides summary data for 1973, 1980, 1981 and 1986. The data, provided by Labour Canada, cover settlements in bargaining units with at least 500 employees excluding construction. Overtime provisions relating to overtime rates of pay in 1986 indicate a number of characteristics of existing agreements. As far as legislative standards are concerned approximately 85 percent of surveyed employees are covered by the weekly standard (40 hours) and 63 percent are covered by the daily standard (8 hours), i.e. the agreement either relies upon or reiterates the legislative standard of hours per day or hours per week. In particular, 31 percent of employees are provided with better coverage than the daily standard (primarily Manufacturing, Trade, and Transportation/Communication/Utilities sectors). Furthermore, 11 percent of employees are provided with better coverage than the weekly standard (primarily Trade and Transportation/Communication/Utilities employees). Public sector agreements have a tendency to rely on the legislative standard more than private sector agreements – 22 percent of employees have no daily overtime rates (3 percent in private) and 49 percent have no weekly rates (35 percent in private).

TABLE 1
OVERTIME AND RELATED COLLECTIVE AGREEMENT PROVISIONS BY MAJOR INDUSTRY GROUPS IN CANADA, 1986

Provision	Primary	Manu.	Trans. etc.	Trade	Pub. Admin. and P.O.	Sector	
						Pub.	Priv.
Overtime Compensation After Daily Hours							
Time and one half	75.3	56.4	39.7	65.0	46.9	44.7	54.7
Time and one half, followed by higher rate	19.3	40.3	45.2	30.3	10.0	28.2	36.6
Other	4.1	3.0	9.7	4.1	3.9	5.5	5.7
No provision	1.4	0.3	5.3	0.6	39.2	21.6	3.0
Overtime Compensation After Weekly Hours							
Time and one half	80.3	54.7	29.1	39.4	46.9	39.0	44.4
Time and one half followed by higher rate	7.7	6.8	19.5	22.0	9.9	7.9	16.5
Other	2.3	1.4	6.9	1.7	3.9	4.0	3.9
No provision	9.6	37.0	44.5	36.9	39.3	49.1	35.2
Overtime Compensation on Saturday or Sixth Day (Not normally worked)							
Time and one half	51.2	59.3	27.6	26.6	35.8	31.1	45.3
Time and one half followed by higher rate	21.0	26.2	13.8	8.5	37.7	20.1	19.7
Double time	4.1	5.2	39.4	42.0	16.3	16.4	19.7
Other	0.0	0.5	0.3	0.0	2.0	1.0	0.3
No provision	23.7	8.8	19.0	23.1	8.1	31.4	15.0
Overtime Compensation on Sunday or Seventh Day (Not normally worked)							
Time and one half	36.4	17.5	20.6	0.0	24.6	22.4	16.9
Time and one half followed by higher rate	14.9	7.5	4.5	3.3	0.5	3.8	6.4
Double time	26.0	67.3	55.7	82.2	65.8	41.8	63.9
Other	0.0	1.3	1.7	0.0	2.0	1.4	1.5
No provision	22.6	6.2	17.4	14.6	7.2	30.6	11.2

Table 1 (continued)

Provision	Pri-mary	Manu.	Trans. etc.	Trade	Pub. Admin. and P.O.	Sector Pub.	Sector Priv.
Time Off in Lieu of Overtime Pay							
Time off in lieu	0.0	2.5	5.0	4.3	58.4	32.4	2.5
Banking of credits	1.6	3.7	34.8	3.7	30.9	21.2	11.0
Other	0.0	0.0	0.0	0.0	1.3	0.4	0.0
No provision	98.4	93.8	60.2	92.0	9.4	46.0	86.5
Right to Refuse							
Voluntary basis	14.8	30.6	13.5	29.3	1.3	6.3	23.5
Sufficient reason/ others available	15.9	10.3	9.3	20.0	5.6	6.8	11.8
Compulsory overtime in emergency	17.2	9.1	7.4	0.8	7.5	7.1	10.0
Other	5.9	12.0	10.8	19.0	0.5	2.7	11.6
No provision	46.2	38.0	58.9	30.9	85.1	77.1	43.1
Distribution of Overtime							
Plant-wide basis	6.4	6.5	9.4	8.4	19.3	14.0	5.3
Occupation and/or wage bracket	38.8	22.3	25.4	9.0	25.8	22.5	24.0
Equitable-seniority preference	0.0	2.7	19.1	29.5	1.2	4.3	9.1
Department and occupation	24.4	19.4	0.5	4.9	0.3	0.5	12.9
Other	10.7	11.5	2.8	2.2	1.6	3.0	7.6
No provision	19.6	37.6	42.7	46.0	51.8	55.7	41.1
Distribution of work – slack periods							
Change in hours of work	0.0	12.7	0.2	0.0	0.0	0.5	6.9
Change in type of work	0.0	2.5	0.1	0.0	0.0	0.0	1.4
Change in hours and type	6.8	0.7	0.0	0.0	0.0	0.2	0.4
Other	0.0	0.4	4.9	1.4	2.9	1.7	3.2
No provision	93.2	83.5	94.8	98.6	97.1	97.6	88.1
Flexible working hours							
5-day week, variable starting and quitting	0.0	0.0	3.1	5.7	19.6	9.9	1.0
Compressed work week, stated hours	8.2	1.1	2.6	3.0	21.5	9.1	1.8
Compressed work week, variable starting and quitting	0.0	0.0	0.6	0.8	8.2	3.5	0.0
Other	8.6	3.3	6.5	10.8	10.6	10.2	3.6
No provision	83.2	95.6	87.2	79.6	40.1	67.3	93.6

Source: Labour Canada.

Note: The Collective Agreement Survey covers bargaining units of 500 or more employees.

TABLE 2

OVERTIME AND RELATED COLLECTIVE AGREEMENT PROVISIONS, IN CANADA, 1973-1986

Annual Aggregates

	All Industries			
Provision	1986	1981	1980	1973
Overtime Compensation After Daily Hours				
Time and one half,	48.0	50.9	53.7	61.4
Time and one half, followed by higher rate	31.0	28.6	25.9	20.1
Other	5.6	5.5	5.2	3.2
No provision	15.4	15.0	15.2	15.3
Overtime Compensation After Weekly Hours				
Time and one half,	40.8	42.1	44.8	50.3
Time and one half, followed by higher rate	10.8	10.4	9.8	6.9
Other	3.9	2.9	2.5	1.5
No provision	44.5	44.6	42.9	41.3
Overtime Compensation on Saturday or Sixth Day (Not normally worked)				
Time and one half,	35.8	36.2	36.7	37.5
Time and one half, followed by higher rate	20.0	19.4	19.1	17.2
Double time	17.5	13.8	13.6	5.6
Other	0.8	1.2	0.2	1.5
No provision	25.9	29.4	29.4	38.2
Overtime Compensation on Sunday or Seventh Day (Not normally worked)				
Time and one half,	20.6	20.8	20.5	22.6
Time and one half, followed by higher rate	4.7	4.4	3.9	3.6
Double time	49.1	46.9	47.1	38.7
Other	1.4	1.5	1.5	2.1
No provision	24.2	26.4	27.0	33.0
Time Off in Lieu of Overtime Pay				
Time off in lieu	22.5	20.5	19.8	
Banking of credits	17.9	9.3	6.6	
Other	0.3	0.1	0.2	
No provision	59.4	70.0	73.4	
Right to Refuse				
Voluntary basis	12.0	13.6	14.8	22.8
Sufficient reason/others available	8.5	9.1	8.1	22.8
Compulsory overtime in emergency	8.0	6.0	4.4	22.8
Other	5.7	5.0	4.6	22.8
No provision	65.8	66.3	68.1	77.2
Distribution of Overtime				
Plant-wide basis	11.2	18.6	19.9	42.3
Occupation and/or wage bracket	23.0	16.0	15.4	42.3
Equitable-seniority preference	5.9	5.2	4.9	42.3

Table 2 (continued)

	All Industries			
Provision	1986	1981	1980	1973
Department and occupation	4.6	3.5	2.7	42.3
Other	4.6	3.5	2.7	42.3
No provision	50.9	49.9	49.9	57.7
Distribution of work - slack periods				
Change in hours of work	2.6	6.9	7.0	7.0
Change in type of work	0.5	0.7	0.5	7.0
Change in hours and type	0.3	0.8	0.1	7.0
Other	2.2	0.1	0.2	7.0
No provision	94.5	91.6	92.2	93.0
Flexible Working Hours				
5-day week, variable starting and quitting	7.0	5.3	5.4	
Compressed work week, stated hours	6.7	0.5	0.4	
Compressed work week, variable starting and quitting	2.4	0.3	0.2	
Other	8.0	4.5	3.8	
No provision	76.0	89.4	90.3	

Source: Labour Canada.

Note: The Collective Agreement Survey covers bargaining units of 500 or more employees.

Insofar as "time off in lieu of overtime pay" is concerned, the sector where employees were most likely to be covered by this provision is the public sector (54 percent of employees), in particular Public Administration (31 percent of employees are permitted banking of overtime credits, 58 percent may choose time off in lieu of overtime) and Transportation/Communication/Utilities (35 percent of employees are permitted banking of credits). In contrast, only 13 percent of private sector employees have any provision relating to time off in lieu of overtime pay, and the majority are in the service section of the private sector.

An important aspect of collective bargaining has been the right to refuse overtime. Only 15 percent of Public Administration employees have some right to refuse overtime, i.e. either overtime is on a voluntary basis, an employee may refuse if there is sufficient reason or others are available to perform the work, or overtime is compulsory only in case of an emergency. In contrast, nearly 70 percent of Trade employees are covered by some sort of a refusal right. The table shows that any right to refuse overtime is substantially more prevalent in the private sector. This could be explained by the different rates of usage of overtime across industries. (See discussion on performing overtime.)

Another key provision is the distribution of overtime, central to many grievances and arbitrations. Employees in industrial settings are more likely to be covered by such a provision – the least likely in Public Administration. Of those employees covered by the provision, Public Administration employees are unique in that 40 percent are covered by distribution on a plant-wide basis while only 9 percent of private industry employees are similarly covered. Trade employees are also unique in that 55 percent of employees covered by a provision are covered by a "Equitable Distribution – Preference Given to Senior Employees" provision while 33 percent of Transportation/Communication/Utilities employees are similarly covered and the survey average is 12 percent. One-third of Primary and Manufacturing industry employees are subject to a "distribution of overtime on a department and occupation and/or wage bracket" provision, substantially higher than the 9 percent survey average.

Related to the distribution of overtime provision is the distribution of work during slack periods. Only 5.5 percent of all employees, concentrated in the private sector, were covered by such a provision. The most common method of distribution was a change in hours of work, a provision which covered 13 percent of Manufacturing employees and 2.5 percent of all employees. Primary industries only provided for change in both hours and type of work (7 percent of primary employees).

Finally, related to distribution of work and overtime is flexible work hours. This provision was most prevalent in Public Administration (60 percent of employees covered) and least prevalent in Manufacturing (less than 5 percent). In Public Administration, 22 percent of employees were covered by a compressed workweek with stated hours, 20 percent with a 5-day week with variable starting and quitting time, and 8 percent with a compressed work week with variable starting and quitting time (the remaining 11 percent in an "other" category).

Trends

While there has been little change in the percentage of employees covered by overtime compensation provisions since 1980, there have been changes in language within industries, such as in the Overtime After Daily Hours provision. For example, Trade shows a distinct shift toward "time and one half" (from 57 percent to 65 percent of workers) while Transportation/Communication/Utilities shows a shift toward "time and one half followed by a higher rate", from (30 to 45 percent of workers). Interestingly enough, this industry also showed a shift in the overtime compensation after weekly hours toward "time and one-half" and the Trade industry showed the reverse. This may indicate that weekly overtime premiums and daily overtime premiums are substitutes in that when daily premiums are preferred, the weekly premiums are reduced and vice versa. One extreme change was that in Public Administration and the Post Office, the percent of workers covered by a daily overtime premium decreased from 97 percent of workers to 60 percent of workers. At the same time, the industry experienced an increase in coverage of "banking of overtime credits" from 12 percent to 66 percent. About one-half of the change is attributable to new coverage of workers by a "time off in lieu of overtime" provision, the remainder attributable to a change in existing provisions. Changes in provisions covering overtime compensation for Saturday or Sunday work (not normally performed) are most striking in Primary industries and Manufacturing. In Primary industries 78 percent of workers are now covered whereas previously 55 percent were covered by a Sunday provision and 44 percent were covered by a Saturday provision. In Manufacturing, while there was a minor increase in coverage, there was also a sizable shift toward "double time" provisions (from 60 percent to 69 percent).

There has been a tremendous increase in employees provided with a "time off in lieu of overtime pay" provision. In particular, the percent of employees covered by a "banking of overtime credits" provision has risen from 6.6 percent in 1980 to 17.9 percent in 1986. This change is largely attributable to the Transportation/Communication/Utlilities sector (up from 17 percent to 35 percent) and Public Administration (up from 12 percent to 31 percent). There have been minor changes in coverage of "right to refuse overtime" provisions, and the only noteworthy trend has been the near doubling of the percent of employees who (1) have the right to refuse after a specified period of compulsory overtime or (2) are subject to compulsory overtime only in case of emergency. In addition, while there has been little change in the percent of employees covered by "distribution of overtime" provisions, the general trend has been away from distribution on a plant-wide basis (down from 20 percent in 1980 to 11 percent in 1986) and toward distribution within an occupation and/or wage bracket either within a department or not (up from 18 to 28 percent). In general, distribution of overtime has tended to be within a much smaller unit.

Two evident changes may be attributed to the recession. One, there has been a decrease in frequency of employees covered by "distribution of work – slack periods" provisions. Two, flexible working hours are much more common (covering 24 percent of employees in 1986 versus less than 10 percent in 1980). The shift in flexible work hours coverage is almost entirely attributable to the public sector whereas the decline in distribution of work slack periods is almost entirely a private sector phenomenon. These changes may have occured due to the ability of each industry to respond to the recessionary environment given the nature of the work.

Overtime Hours and Weekly Hours

Table 3 provides annual data on weekly and overtime hours of work, the overtime rate (overtime hours divided by hours of work) and the coefficient of variation of the overtime rate – a measure of relative change in the rate. All data are based on the monthly data from Statistics Canada's Employment, Earnings and Hours for 1985, and provides industrial breakdowns.

The average number of weekly overtime hours is substantially smaller in retail trade and service industries (less than 0.5 hours per week on average) than in

TABLE 3
HOURS OF WORK BY INDUSTRY IN CANADA, 1985
Annual Averages

	Average Weekly			
Industry	Total Hours (A)	Overtime Hours (B)	Overtime Rate (B/A)	Coefficient of Variation
Forestry				
Logging	38.6	2.7	7.1	0.106
Mining				
Placer gold mines	38.7	1.5	3.9	0.452
Gold quartz mines	38.2	2.3	6.1	0.068
Uranium mines	37.6	0.8	2.2	0.291
Iron mines	39.1	1.8	4.6	0.517
Miscellaneous metal mines	39.5	1.7	4.3	0.120
Coal mines	41.1	3.4	8.2	0.238
Crude petroleum and natural gas	40.9	4.2	10.3	0.243
Asbestos mines	39.1	1.0	2.6	0.424
Gypsum mines	41.9	1.7	3.9	0.213
Miscellaneous non-metal mines	39.8	1.8	4.4	0.123
Contract drilling for petroleum	38.4	8.7	22.6	0.157
Miscellaneous services to drilling	38.6	6.1	15.7	0.129
Manufacturing				
Food and Beverages				
Meat and poultry products	37.1	1.8	4.9	0.189
Fish products	31.4	2.8	8.9	0.163
Fruit and vegetable processing	36.3	1.6	4.5	0.312
Dairy products	36.6	2.2	6.0	0.086
Feed	39.2	2.5	6.4	0.078
Bakery products	33.5	1.0	3.0	0.194
Miscellaneous food products	37.9	1.9	5.1	0.173
Beverages	37.7	1.7	4.5	0.236
Tobacco				
Tobacco products	35.8	2.2	6.0	0.352
Rubber and Plastics				
Rubber products	39.6	1.4	3.5	0.217
Miscellaneous plastic and rubber products	38.3	2.3	5.9	0.270
Leather				
Leather tanneries	37.4	1.6	4.3	0.206
Shoe factories	36.7	0.5	1.2	0.358
Luggage, handbags and small leather goods	38.0	0.9	2.5	0.495
Textiles				
Wool, yarn and cloth	39.5	1.1	2.7	0.254
Man-made fibre, yarn and cloth	40.9	2.2	5.4	0.149

Table 3 (continued)

	Average Weekly			
Industry	Total Hours (A)	Over-time Hours (B)	Over-time Rate (B/A)	Coeffi-cient of Variation
Carpet, mat and rug	40.0	1.8	4.4	0.182
Canvas products, cotton and jute bags	37.6	0.8	2.0	0.227
Automobile fabric accessories	40.2	1.4	3.4	0.336
Miscellaneous textiles	39.5	1.7	4.4	0.325
Knitting Mills				
Hosiery	39.2	0.7	1.9	0.241
Knitting mills (except hosiery)	39.3	2.0	5.0	0.340
Clothing				
Men's clothing	37.3	0.7	1.9	0.137
Children's clothing	38.5	0.8	2.1	0.325
Foundation garments	36.7	0.4	1.1	0.402
Wood				
Saw, planing and shingle mills	38.3	1.4	3.7	0.092
Veneer and plywood mills	37.8	1.3	3.5	0.097
Sash, door and other millwork plants	39.8	1.9	4.8	0.271
Wooden box factories	36.2	0.9	2.4	0.281
Furniture and Fixtures				
Household furniture	38.9	0.7	1.8	0.198
Office furniture	39.6	2.2	5.5	0.135
Miscellaneous furniture and fixtures	39.5	1.6	4.0	0.231
Paper and Allied				
Pulp and paper mills	39.9	2.7	6.7	0.048
Paper boxes and bags	39.3	2.0	5.1	0.154
Miscellaneous paper converters	37.3	2.1	5.5	0.118
Printing, Publishing and Allied				
Commerical printing	36.8	2.3	6.1	0.191
Publishing only	27.3	0.6	2.1	0.269
Publishing and printing	29.8	1.2	4.0	0.186
Primary Metals				
Iron and steel mills	40.4	1.2	2.9	0.144
Steel pipe and tube mills	39.5	2.0	5.1	0.130
Iron founderies	41.9	2.5	5.9	0.138
Smelting and refining	39.8	1.2	3.1	0.144
Aluminum rolling, casting and extruding	43.8	2.7	6.1	0.113
Miscellaneous metal rolling, casting and extruding	40.5	1.4	3.5	0.128
Metal Fabricating				
Boiler and plate works	39.9	2.6	6.5	0.224
Fabricated structural metals	39.0	1.8	4.5	0.197

Table 3 (continued)

Industry	Average Weekly Total Hours (A)	Average Weekly Overtime Hours (B)	Average Weekly Overtime Rate (B/A)	Coefficient of Variation
Ornamental and architectural metals	38.6	1.2	3.0	0.271
Metal stamping, pressing and coating	40.1	2.1	5.1	0.305
Wire and wire products	39.6	1.4	3.4	0.216
Hardware, tools and cutlery	42.1	2.9	6.9	0.386
Heating equipment	38.2	1.4	3.6	0.137
Machine shops	38.5	1.8	4.7	0.135
Miscellaneous metal fabricating	39.2	1.4	3.5	0.106
Machinery Except Electrical				
Agricultural implements	39.1	0.8	2.0	0.362
Miscellaneous machinery and equipment	40.4	2.4	6.0	0.080
Commercial refrigeration and air conditioning equipment	38.1	0.9	2.4	0.233
Office and store machinery	38.1	2.0	5.4	0.235
Transportation Equipment				
Aircraft and aircraft parts	42.0	2.9	6.9	0.234
Motor vehicles	44.3	1.9	4.4	0.151
Truck bodies and trailers	37.2	1.4	3.6	0.139
Motor vehicles parts and accessories	41.2	2.1	5.1	0.143
Railroad rolling stock	40.4	1.3	3.3	0.252
Shipbuilding and repair	39.4	2.2	5.6	0.166
Boatbuilding and repair	38.9	1.0	2.5	0.245
Electrical Products				
Small electrical appliances	38.2	1.0	2.7	0.314
Major appliances, including non-electric	38.7	1.0	2.6	0.164
Lighting fixtures	38.6	1.0	2.6	0.318
Household radio and television receivers	40.6	3.8	9.4	0.366
Communications equipment	40.6	1.7	4.2	0.229
Electrical industrial equipment	39.7	1.8	4.6	0.158
Electric wire and cable	41.8	2.2	5.2	0.162
Miscellaneous electrical products	39.5	1.4	3.5	0.275
Non-Metallic Mineral Products				
Clay products	38.4	1.9	5.0	0.238
Cement	40.9	3.4	8.3	0.174
Ready-mix concrete	39.4	4.3	10.8	0.235
Glass and glass products	40.5	1.2	3.0	0.127
Abrasives	39.2	1.4	3.4	0.175
Miscellaneous non-metalic mineral products	40.3	2.4	5.9	0.134
Petroleum and Coal				
Petroleum refineries	41.6	2.3	5.6	0.135
Miscellaneous petroleum and coal products	41.8	2.2	5.3	0.487

Table 3 (continued)

Industry	Average Weekly Total Hours (A)	Average Weekly Overtime Hours (B)	Average Weekly Overtime Rate (B/A)	Coefficient of Variation
Chemical and Chemical Products				
Mixed fertilizers	38.4	2.7	7.1	0.743
Plastics and synthetic resins	42.0	3.1	7.3	0.122
Pharmaceuticals and medicines	36.9	1.2	3.4	0.109
Paint and varnish	38.3	1.9	5.0	0.132
Soap and cleaning compounds	40.1	2.5	6.1	0.089
Toilet preparations	39.7	1.7	4.3	0.337
Industrial chemicals	41.0	3.0	7.3	0.134
Miscellaneous chemicals	39.5	2.0	5.0	0.190
Miscellaneous				
Scientific and professional equipment	38.6	0.8	2.1	0.142
Sporting goods and toys	36.8	1.0	2.6	0.384
Signs and displays	39.5	1.7	4.2	0.178
Construction				
General contractors	36.4	0.9	2.4	0.383
Highways, bridges and streets	41.5	3.3	7.8	0.205
Other engineering	40.7	3.3	8.1	0.154
Special trade contractors	37.1	1.2	3.1	0.175
Transportation				
Air transport	31.9	1.5	4.7	0.092
Railway transport	40.1	0.1	0.2	0.030
Water transport	39.7	3.9	9.7	0.265
Services incidental to water transport	35.3	2.1	6.0	0.229
Other truck transport	36.6	2.3	6.3	0.125
Bus transport, interurban and rural	36.2	0.8	2.2	0.173
Urban transit systems	41.5	2.1	5.1	0.114
Taxicabs operations	31.2	0.8	2.7	0.449
Pipeline transport	38.2	3.2	8.4	0.131
Highway and bridge maintenance	38.7	1.1	2.8	0.499
Miscellaneous services incidental to transport	30.5	1.4	4.4	0.220
Other transportation	29.3	0.6	1.9	0.269
Storage				
Grain elevators	40.3	2.0	5.0	0.415
Other storage and warehousing	35.2	1.7	5.0	0.237
Communication				
Telephone systems	38.3	0.5	1.2	0.405
Utilities				
Electric power	41.1	2.1	5.2	0.181
Gas distribution	39.2	2.1	5.2	0.272
Water systems	40.5	1.3	3.3	0.154
Other utilities	37.5	1.8	4.7	0.107

Table 3 (continued)

Industry	Average Weekly Total Hours (A)	 Overtime Hours (B)	 Overtime Rate (B/A)	Coefficient of Variation
Wholesale Trade				
Petroleum products	34.8	0.9	2.5	0.334
General merchandise	32.0	1.0	3.0	0.399
Food	35.9	1.5	4.1	0.199
Tobacco products	32.4	0.9	2.8	0.474
Motor vehicles and accessories	37.3	1.2	3.1	0.238
Electrical machinery, equipment and supplies	34.4	1.1	3.1	0.297
Farm machinery and equipment	37.1	1.2	3.1	0.486
Miscellaneous machinery and equipment	38.1	2.0	5.3	0.106
Miscellaneous metal and metal products	39.9	2.8	6.9	0.146
Lumber and building materials	35.6	1.2	3.4	0.226
Miscellaneous Wholesalers	34.1	1.1	3.2	0.301
Retail Trade				
Food stores	26.6	0.3	1.0	0.213
General merchandise stores	24.6	0.2	0.7	0.469
Tire, battery and accessories stores	30.9	0.6	1.8	0.167
Gasoline service stations	29.2	0.4	1.5	0.318
Motor vehicle dealers	36.3	0.4	1.1	0.187
Motor vehicle repair shops	35.9	0.8	2.3	0.291
Shoe stores	27.3	0.1	0.4	0.633
Men's clothing stores	25.7	0.2	0.8	0.324
Women's clothing stores	25.9	0.1	0.5	0.356
Miscellaneous clothing and dry goods stores	25.3	0.1	0.5	0.378
Household furniture and appliance stores	29.6	0.5	1.7	0.203
Drug stores	27.7	0.2	0.7	0.366
Liquor, wine and beer stores	26.6	0.4	1.5	0.222
Tobacconists	25.8	0.1	0.5	0.810
Miscellaneous retail stores	26.5	0.3	0.9	0.801
Finance, Insurance and Real Estate				
Banks and other deposit accepting establishments	21.9	0.3	1.3	0.440
Insurance and real estate agencies	24.8	0.1	0.4	0.291
Real estate operators	30.9	0.6	2.0	0.311
Community, Business and Personal Services				
Hospitals	29.9	0.2	0.7	0.141
Related health care institutions	27.7	0.1	0.4	0.325
Offices of physicians and surgeons	20.7	0.1	0.2	1.045
Offices of other health practitioners	22.6	0.2	0.8	1.215
Miscellaneous diagnostic and therapeutic services	26.2	0.3	1.0	0.544
Miscellaneous health services	19.2	0.1	0.5	0.097
Welfare organizations	26.8	0.2	0.6	0.285

Table 3 (continued)

Industry	Average Weekly Total Hours (A)	Average Weekly Overtime Hours (B)	Average Weekly Overtime Rate (B/A)	Coefficient of Variation
Motion picture theatres	18.1	0.4	2.2	0.469
Miscellaneous amusement and recreation services	23.0	0.4	1.6	0.151
Employment agencies and personnel suppliers	28.1	0.4	1.5	0.197
Security and investigation services	32.4	1.2	3.6	0.283
Miscellaneous services to business management	30.3	0.8	2.6	0.169
Laundry, cleaning and pressing	31.3	0.6	1.8	0.319
Hotels and motels	27.1	0.3	1.0	0.255
Camping grounds and trailer parks	30.7	0.1	0.4	1.216
Restaurants, caterers and taverns	24.4	0.2	0.9	0.137
Automobile and truck rental	32.9	1.1	3.3	0.147
Services to buildings and dwellings	26.0	0.3	1.2	0.475
Miscellaneous services	25.2	0.7	2.8	0.301

Source: Statistics Canada, *Employment, Earnings and Hours* and computations by the author.
Note: The Coefficient of Variation is the Standard Deviation divided by the Mean. In this table, figures are based on monthly data. The Coefficient of Variation is computed for the overtime rate variable.

mining and manufacturing industries (averaging about 2 hours per week). The Canadian average of weekly overtime hours was 1.5 hours. The data implies that, if we assume every worker performed overtime, then a majority of industrial workers performed between 0.4 and 2.6 hours of overtime per week. However, some industries had fairly high amounts of overtime performed. For example, in Contract Drilling for Petroleum and Miscellaneous Services to Drilling the average worker performed 8.7 hours and 6.1 hours of overtime per week respectively over the year. This translates to overtime rates of 22.6 percent and 15.7 percent respectively. The table shows that only 13 of the 176 industries had an annual average of 3.0 overtime hours per week per worker, and most of these were in seasonal industries such as road construction, cement industries and mining related drilling. In terms of the overtime rate, 4 industries had a rate higher than 10 percent, 11 had a rate in the range of 7.0 to 10.0 percent, 16 had a rate in the range of 6.0 to 6.9 percent, 24 had a rate in the range of 5.0 to 5.9 percent, 25 had a rate in the range of 4.0 to 4.9 percent, 29 had a rate in the range of 3.0 to 3.9 percent, 28 had a rate in the range 2.0 to 2.9 percent, 20 had a rate in the range of 1.0 to 1.9 percent, and 18 had a rate of less than 1.0 percent. Of the industries with an overtime rate of less than 1.0 percent, none was a goods industry and most were retail trade or health related industries. Nearly all of these service industries had an average workweek of 23 to 27 hours while for the goods industries the average was between 38 and 42 hours. The average weekly hours for all industries in 1985 was 36 (including hours of overtime worked) with the majority of workers performing between 30 and 42 hours of work per week. The data reflects the supposition that where working hours tend to be shorter and part-time workers more prevalent, overtime is used less as an employment substitute.

The estimates of coefficients of variation indicate the relative volatility of overtime rates. Presumably, the less the variation in the rate, the more usual hours vary directly with overtime hours. A comparison of overtime rate volatility is permissible only for industries with similar hours of work. Note that the smaller the weekly hours, the larger the overtime rate for a given amount of overtime and the larger the coefficient of variation when overtime hours vary by the same amount, as compared to industries with longer work weeks. In other words, all other phenomena equal, differences in hours of work will account for differences in the overtime rate and the coefficient of variation. (Due to available data, overtime-hours-per-worker figures are only to one decimal place.)

Data Sources

There are three major sources of data on hours of overtime. Perhaps the most comprehensive in terms of both microdata and survey frequency is Statistics Canada's Employment Survey found in the publication *Employment, Earnings and Hours*. Since the new monthly survey in 1983, information is collected on total paid overtime hours worked and the accompanying pay in the reference week, the last seven days of the month, for hourly rated workers. For salaried employees, information on overtime pay is obtained as are the standard weekly hours including overtime hours. The data includes full-time, part-time and casual workers. All industries except agriculture, fishing and trapping, private household services, religious organizations, and military services are covered. There is both a geographic and industrial breakdown. The data is collected by means of a rotating sample survey of 70,000 units monthly. Data is stratified by 12 provinces and territories, 16 industry groups and four size groups (0-19, 20-49, 50-199, 200+). There is both published and unpublished non-confidential data available. The survey does not provide sex or occupational breakdown of employees and only provides data on overtime from April 1983. One of the limits of the data is that the survey information does not require data on the number of workers working overtime, the average overtime hours of workers who work overtime, or the rates of overtime use by occupation. Instead it stratifies workers by the type of pay period to which they are subject, and requires total overtime hours for these groups of employees. Stratification by overtime worked (even yes or no) would give a better understanding of the scope and breadth of overtime usage in Canada. The other deficiency is that average weekly hours include all paid hours of work or non-work (vacation). Thus, a precise estimate of overtime required as a result of loss of persons performing the work or of increases in production requirements cannot be determined.

A second source of data is the Statistics Canada Survey of the Labour Force. The survey covers about 98 percent of the population age 15 or more, excluding members of Indian reserves, full-time armed forces personnel, inmates of institutions, and residents of the Yukon and Northwest Territories. The survey occurs the week containing the 15th day of a month. Data are obtained on the following criteria: extra hours worked in the survey week, hours lost in the week, usual hours worked in a week, actual hours worked in the week. Furthermore, the data can be cross-indexed by occupation, industry, sex, marital status, age, and tenure. Unfortunately, the survey is not as complete as it could be. For example, there is no provision to note whether the person worked paid or unpaid overtime, or whether the person is hourly paid or salaried.

In December 1984 and January 1987 Labour Canada and Statistics Canada carried out a survey of union membership which expanded on the Employment, Earnings and Hours Survey. By surveying employees rather than employers the hours-related data shifted toward data analysis of average weekly hours by occupation, industry, union status and other qualifications. Similarly, overtime-related statistical analyses by these categories was possible since the survey acquired data on usual hours of work, extra hours of work, and total hours of work. However, the data did not include whether the overtime was paid overtime, whether overtime worked in the survey week was typical, how much overtime the employee worked annually, etc. This data is necessary in order to get more than a static picture of overtime, since the survey is only for a reference week which may be atypical of the occupation or industry. Also of interest would be the number of employees in the firm, and the size of the organization to which the employed person belonged. This would permit determination of the effect of size of organization on the various measures of overtime utilization.

III

The Overtime Debate: Management v Union The Ontario Task Force on Hours of Work and Overtime

Introduction

The Ontario Task Force on Hours of Work and Overtime, headed by economist Arthur Donner, was formed January 23, 1986 in order to determine if it is desirable and feasible to reduce hours of work and hours of overtime through legislative means in order to create jobs for the unemployed. Central to the Task Force's purpose was the question of the practicable nature of such changes and the extent to which they would affect business operations, i.e. whether such legislation would in fact increase employment. Under the mandate from the Ontario government, the Donner Commission was guided by six broad principles in arriving at specific recommendations:

1 Employment standards legislation should reflect community standards.
2 There is an assumed convergence of business and labour interests on many issues, especially over the long run.
3 Workers and firms should be assisted in adapting to the industrial restructuring.
4 Recommended changes should provide flexibility to employees and employers, and they should be practical with respect to compliance and enforcement. The recommendations should assist job creation, not detract from it.
5 The Task Force accepts the continued justification for a maximum-hours limitation in the Employment Standards Act.
6 The hours and overtime regulations in Ontario are working reasonably well. Consequently, the current framework should be maintained to the extent feasible. The compliance mechanism, however, has to be tightened. (Ontario 1987, 128)

In light of the mandate the Task Force posed a number of questions and invited submissions from firms, unions, consultants, etc. The following questions were asked (Automative Parts Manufacturers' Association of Canada):

1 What is your perception of hours of work and overtime issues?
2 Do you perceive the issue of excess overtime work which has recently emerged to be a temporary or permanent phenomenon?
3 What is an appropriate work week in Ontario? Should government change the regulatory setting to affect the working week? What are the costs and benefits to the Ontario economy of attempting to reduce the work week?
4 To what extent can jobs be created by restricting the scheduling of overtime hours? What is the experience of other jurisdictions?
5 What are the cost and other implications for employers and employees of restricting the scheduling of overtime hours or reducing actual hours worked?
6 If it were deemed necessary to reduce the working hours of existing employees to share the work with others, what is your attitude towards alternative methods or policies of restricting overtime, such as encouraging early retirement, worksharing arrangements, promoting larger paid vacations or educational or training leave, or requiring that overtime be reimbursed through compensating time off?
7 If the use of overtime is to be further restricted, which mechanism would be the least disruptive?
8 Are there constraints or conditions in collective agreements and/or in employer practices which contribute to the difficulty of rehiring laid off workers or hiring new employees?
9 What factors inhibit the use of alternatives to overtime such as recalls from layoffs, new hiring, adding shifts, building inventories to handle peak demands, contracting out, upgrading existing employees or redesigning the job so that overtime is required less often?
10 If the two-phase permit system is continued, what criteria should be used to grant or refuse permits?
11 Are there other incentives which should be considered to discourage employers from scheduling overtime and to discourage employees from wanting to work overtime?
12 To what extent are workers dependent upon overtime to maintain their standard of living?
13 Would prospective changes in pension legislation (e.g. 2 year vesting) and/or in the unemployment insurance system (e.g. experience rating) affect the scheduling of overtime?
14 Does the ability to refuse overtime adequately protect employees who do not want to work longer hours?

The Task Force held public hearings May 27 and June 12, 1986 across the province. There were approximately 140 public submissions, written and/or oral, presented to the Task Force. (Please see the Appendix for a list of names/organizations and their related submission numbers.)

The Management Consensus and Selected Summaries

Management's position tends to uphold the status quo, that there should be no changes in the permit system, overtime legislation, or hours of work legislation insofar as they would further inhibit the rights of management to allocate labour freely. Most submissions note that Ontario is one of the few jurisdictions with an overtime limit which directly affects competition and any further restrictions could dampen economic growth. For example, the Council of Printing Industries notes that because the majority of printing paper is produced in Ontario and Quebec, more stringent legislation in Ontario could shift substantial amounts of production to Quebec since it has no permit system or maximum hours of work. A number of firm's output levels are seasonal and, as such, require flexibility – to work long hours in the "on season" and substantially reduced hours in the "off season". The Ready Mix Concrete Association of Ontario, which qualifies for long hours' permits under the special industry permits of the Labour Standards Act, believes that such special permits must be preserved. Furthermore, since companies in goods production (such as auto parts industry) usually produce or require inputs on a "just-in-time" basis, overtime management must be flexible enough to permit them to meet demand.

In spite of industry size differences, there tends to be a similar intent in the recommendations to the Task Force across industry: to minimize cost and maximize efficiency in the short term. The Canadian Organization for Small Business believes that more stringent legislation would force more subcontracting, exporting of business to other provinces, and increase the size of the underground economy due to the relatively high cost of training and hiring in small business. Most larger companies prefer training and job search as the method for reducing structural unemployment, not hours restrictions, and believe that the problems of overtime are best dealt with by the two parties in the collective bargaining relationship. Interestingly enough, the Canadian Federation of Independent Business recommends changes whereby compensatory time off would be an option and the right to refuse overtime would trigger at 44 hours but also recommends elimination of daily and weekly hours' limits and of the permit system. Some companies note that overtime is a necessary component, and freedom to schedule compulsory overtime (overtime hours not in excess of the weekly maximum) is necessary. In fact, such companies would prefer the increase of the maximum hours per week to 60 and a simpler, more flexible permit system.

Two submissions which key on management of overtime are those of IBM and General Motors. General Motors attempts to minimize overtime through an extensive apprenticeship program, an incentive fund, and alternative work scheduling. IBM experience indicates that overmanning is not an alternative and that setting an annual limit on overtime of 500 hours (overtime in excess of 40 hours per week) without daily or weekly restrictions would permit more flexible work arrangements not only on a weekly but also on a seasonal basis.

Inco

Overtime is generally required for one of the following reasons: emergencies such as equipment failure, replacement of absentees who perform essential jobs, and performance of work required to keep operations in balance or to avoid interference with normal operations. Most overtime worked is for correcting unscheduled and unforeseen situations which occur randomly. Short-term demands do not justify additional employees. Inventory building has proven to be costly and can result in layoffs if the demand does not develop. Inco believes that remunerating overtime with time off is not practical since it would in many cases result in the pyramiding of overtime. The submission states that the present two-phase system of permits is adequate where enforcement of the regulations and reasonable justification for overtime is determined. Furthermore, the ultimate control of overtime lies with the employee who has the right to refuse overtime offered under an excess overtime permit. The submission notes that Ontario is one of the few jurisdictions with an overtime limit which directly affects competition, and any further restrictions would additionally hamper the ability to compete.

Ready Mix Concrete Association of Ontario

Due to the nature of the industry (perishable product unable to be stockpiled and the short season of work) free scheduling of overtime is essential. Over the last 10 to 15 years there has been no significant change in overtime hours. The industry is fairly capital intensive and consequently increases in operable plant and equipment is not economically sound. The association believes that the hiring of qualified part-time or casual workers would be protested by the union and employees due to the short season during which employees earn wages by seriously reducing the annual wages of employees. The majority of grievances and arbitration cases relating to hours of work are primarily grievances by employees for failure to receive their fair share or equitable distribution of overtime hours.

The industry permit (no.18) authorizes "work as required" and the association believes that this special provision for unlimited hours must be preserved to protect the industry's dependence on the construction industry. Removing the protection would cripple the industry through exponential increases in costs, and such effects would ripple through support industries and demand industries. The submission suggests that the terms of its permit should be incorporated into legislation by amendment to the regulations, thereby recognizing the permit as a right.

The Ontario Road Builders Association and Metropolitan Toronto Road Builders Association

Due to the shortness of the workyear (7-8 months maximum) long work hours are necessary. Temperatures limit road surface treatment to 3 months per year in Northern Ontario and to 4 months in Southern Ontario. In spite of these limitations the industry provides approximately 2000 hours of work per annum to each worker. Due to the nature of the industry there is poor access to overtime workers at short notice and shift work is economically unsound. The current special overtime provisions which exist and whose maintenance is necessary to sustain the industry are as follows:

Section 16(1) – Regulation 285

> 16.1 Notwithstanding Part VI of the Act, and subject to subsection (2), (a) an employee engaged at the site of road building in relation to streets, highways or parking lots shall be paid overtime pay by his employer for each hour worked in excess of fifty-five hours in a work week at an amount not less than one and one-half times his regular rate; and (b) an employee engaged at the site of road building in relation to structures such as bridges, tunnels or retaining walls in connection with streets or highways shall be paid overtime pay by his employer for each hour worked in excess of fifty hours in a work week at an amount not less than one and one-half times his regular rate.
> 16.2 Where the hours of work in the case of, (a) an employee within clause (1)(a) are less than fifty-five hours in a work week; or (b) an employee within clause (1)(b) are less than fifty hours in a work week, the difference up to an amount not exceeding twenty-two hours between the hours of work in the work week and fifty-five hours or fifty hours, as the case may be, may be added to the maximum hours prescribed by clause (1)(a) or (b) for the purpose of determining the overtime pay of the employee in the immediately following calendar week. R.R.O. 1980, Reg. 285, s.16

The Central Ontario Industrial Relations Institute

The Institute represents over 400 companies in Ontario, most employing fewer than 250 employees. The Institute believes that the permit procedure is unnecessary and bureaucratic. It deems the Employment Standards Act to contain three types of permits: one concerning hours in excess of the 8 hours daily maximum provided the 48 hour weekly maximum is not exceeded, the second concerning an additional 10 hours in excess of the 48 weekly hour maximum, and the third or "special" permit in excess of the 100 hour permit; the first two granted virtually automatically. Consequently, permits of the first two types should not be necessary if they are virtually automatic.

The Institute notes that due to the nature of demand, alternatives to overtime are not logically sound. Using the automobile industry as an example, the Institute states that while there may be high levels of overtime being worked due to production levels near full capacity, it does not make sense that the industry spend money on additional capital or workers since current projections for 1989 indicate a slump in the demand for automobiles. Furthermore, the "excessive overtime" is deemed a temporary phenomenon indicative of the depth of the impact of the recession of 1981-1982. Rather than job creation, production stabilization is the necessary solution. Similarly, it is suggested that the persisting decrease in the average work week is merely reflected in the increased overtime, the net hours of work actually remaining relatively constant over time. It is interesting to note that industry averages from Statistics Canada indicate an average work week of less than 40 hours per week and average overtime hours per worker of 2 hours per week, a total of 6 hours below the legislated maximum.

If the case is made that overtime is necessary due to lack of qualified personnel, then increased limitations on hours of work and overtime would only worsen the employment situation through forces which cause a plant to shut down. The Institute assumes that the average of two hours overtime per employee per week is in fact the result of each employee working an extra two hours each week and/or that the time is split among different and unrelated occupations. In this case elimination of overtime possibilities would not translate into more employment. The Institute also indicates that an experience rating of unemployment insurance would necessarily raise employment costs of peak load casual workers, thereby reducing the desire to hire external temporary workers and increasing the desire for internal candidates through the overtime procedure.

Canadian Organization of Small Business (COSB)

The COSB is of the opinion that existing hours of work and overtime legislation provides a reasonable balance between the needs of the employers to meet temporary or cyclical surges in demand and the protection of workers against unreasonable requirements to work overtime. They state that "the right of employees to work overtime hours voluntarily should not be impaired, and should take precedence over the legislated redistribution of employment opportunities through more restrictive limits on overtime and/or involuntary work sharing. The Task Force should be against any proposals which would force small companies to function in precisely the same manner as large ones and vice versa."

In the realm of small business the cost of hiring and training personnel is relatively high in comparison to that of voluntary overtime. If overtime work had led to lower productivity during the normal work week, lower quality or gave an indication of overtime being counterproductive, the overtime system would then accordingly change at the impetus of the employers. The permit system generally does not apply to firms of fewer than 50 employees. The COSB sees more stringent legislation as forcing higher levels of subcontracting, exporting of business to other provinces, and significant growth in the underground economy. In summary, changes can only be detrimental to both employees and employers.

IBM Canada

Insofar as recent trends in the work ethic and flexible work schedules are concerned, current legislation does not reflect and is not adaptive to the changes. IBM notes that other industrialized countries do not regulate overtime via permits the way Ontario currently does, and that where permit requirements do exist (Japan) the administration and application process is streamlined and almost automatic. Two key concerns beyond the 1944 legislation was employee health and safety and the lack of equitable distribution of employment which are as applicable today as they were 42 years ago. Pertinent to the argument of substituting full-time employment for overtime employment is that unless training is sufficiently fast and the able employees are available, there will be a time lag on the order of 12-24 months before a new employee's productivity can significantly reduce the workload of co-workers, by which time a medium-term use of overtime may no longer be required. IBM's experience indicates that sometimes overmanning (hiring a new employee into a group project rather than having the current members work longer hours) is generally an inefficient use of resources and may in fact reduce quality of the product. Accordingly, each situation should be examined individually to assess job creation possibilities.

There were five recommendations in the IBM submission: (1) revise the criteria for eligibility; (2) establish an annual cap on overtime; (3) allow compensatory time off to be deducted from overtime hours; (4) revise the provision for emergency/critical work; (5) reassess the administrative procedures. Criteria revision involves widening the definition of exclusions rather than identifying all current and future "professional positions." The recommended change means replacing the list of professional positions with "Professional/Management Equivalents" who are "Individuals who perform non-manual work directly related to the general business operations of their employer; and who customarily and regularly exercise discretion, control, knowledge and independent judgement similar to that exercised by a supervisor/manager." The IBM submission recommended an annual cap of 500 overtime hours per employee (currently with a standard workweek of 40 hours, the 48 hour limitation permits 8 hours of overtime per week, up to 416 hours per year, plus 100 additional hours with a "standard permit"). It further recommends that overtime should not exceed 10 percent of regularly scheduled time for persons eligible for overtime. Elimination of weekly and daily restrictions with an annual cap permits peak workload adjustments. A further recommendation is that the employer should have the option of (1) paying, for example, time-and-one-half or (2) giving the employee time off at the rate of time-and-one-half but not counting these hours as overtime hours worked. Due to the nature of current service sector establishments, a redefinition of emergency is required to expand beyond the term "plant and machinery" to include, in the case of information systems, software problems which are not covered under equipment. The recommendation is that the legislation read "In case of an accident or in case of work urgently required to be done, an employer may require the limit of hours of work [prescribed by the applicable sections] to be exceeded but only so far as may be necessary to avoid serious interference with the ordinary working of an establishment." Finally, because IBM has found the current application process to be "onerous and inflexible", IBM recommends simplification of the process.

General Motors

Of particular importance to the issue of overtime is the flexibility of the employer to make capital expenditures to expand production, usually a long-term phenomenon, and to plan for a utilization of such capital through the short-term and medium term business cycle. General Motors notes that at the Scarborough plant the only employees who have made it necessary to apply for second-phase excess hours permits are union representatives, due to the nature of their responsibilities and use of hours and the provisions in the collective agreement. General Motors believes that reduced work week legislation related to overtime would result in lower capacity utilization rates since in assembly line firms it is necessary to have a full complement of workers, and such legislation would increase refusals to sufficient numbers that the assembly line in overtime situations would be unable to be formed. Short-term employment is not seen as a solution as training costs could not be recouped in the short term, and there could be no guarantee to the worker for sustained employment.

An important aspect of the overtime issue is bottleneck operations. This is where it is necessary to work certain facilities at longer hours than other facilities to keep the production process at a smooth rate. The submission notes that due to employment standards changes earlier this year, union comment is required on whether employer's requests for excess hours' permits should be granted or not. Such action was deemed discriminatory vis-à-vis non-unionized employers. Further, such action could be used as a bargaining tactic. General Motors notes that in addition to its collective agreement provisions for overtime pay usually in excess of the legislated standard, they also have a provision whereby the company is required to accrue 50 cents per overtime hour worked into a layoff benefit account when overtime worked by all employees exceeds five percent of their straight-time hours worked. General Motors also has a fairly extensive apprenticeship program which takes four years to complete to help prevent skill shortages and anticipate future skill requirements to increase job flexibility and permit more equitable distribution of overtime between employees.

A key suggestion of the paper is alternative work schedules to permit high levels of facilities' utilization without extensive use of overtime. The company's current proposal in the master agreement establishes the basic principles for alternative work schedules. They are: accommodate the needs of employees; recognize the need to maintain quality, efficiency, and capacity utilization; maintain current compensation levels; and not increase cost to the company. Such arrangements could increase jobs by as much as 50 percent in certain job classifications. However, such systems require sustained market demand and maintenance solutions. One of the barriers to implementation is employee attitude toward overtime – employees are used to and believe they have a right to work overtime. Consequently, employees have been opposed to flexible work schedules and casual or part-time employees.

In summary, General Motors made five recommendations. Reference to a daily hours limit should be changed to 10 hours per day under the 48 hour weekly maximum. The occupations listed as exemptions to the maximum hours legislation should be broadened, clarified and updated to reflect current occupational nomenclature. The two phase permit system should be abandoned: a new system should give overtime credit to employers who minimize the percentage of employees required to work excess hours. Union input on the approval process should be discontinued. Further restrictive legislation concerning hours of work and overtime should be avoided.

Stelco

One of the key aspects of the Stelco submission is the 1985-86 attempt to stabilize employment for remaining employees (18,733 of the 1981 26,263 employees). This was attempted through shifting from contracting out toward contracting in. Stelco notes that absenteeism, primarily short term, in producing departments accounts for the major portion of overtime requirements and is approximately four percent of regular hours. A comparison of the first quarter hours lost due to absenteeism (i.e. hours worked overtime to replace absent workers) at the Hilton Works 56 "Mill & N.S.F. and 148" Plate Mill for 1984, 1985 and 1986 are 1,787, 2,496, and 3,435 hours respectively, representing increases of 40 percent in 1984-1985 and 38 percent in 1985-1986. Stelco's back-up training program, where each employee knows his own and two other job positions, has been mammoth and difficult to manage in light of the past recession and the associated layoffs, terminations, retirements, and quits. Consequently, overtime for certain job classifications may only be fillable by select personnel, requiring the second stage overtime permit. Such a consequence is exacerbated by the continuous process of manufacturing required by the steel industry and the cyclical nature of demand. Stelco reiterates General Motors position that periodic reemployment of casual short-term workers is unfair to the employees as it gives them little guarantee of continued employment. Analysis of non-producing departments indicates that 65 percent of overtime hours were as the result of demand forces (operational machinery breakdown or maintenance), a usually unpredictable force. In assessing the use of overtime, Stelco compared overtime as a percent of worktime for 1980, 1981 and 1985 and found that in spite of the shift toward contracting-in, the computed statistic was lower in 1985 than in the pre-recession peak of 1980-1981.

The submission mentions a number of impediments to reducing overtime. Under trade union (contractual) considerations, Stelco notes that flexibility of moving the workforce from a low demand to a high demand area has been met with trade union resistance reflecting the required movement across seniority units. Due to entitlement of 2 weeks vacation during prime vacation time and the related insufficient numbers of qualified persons to fill positions (either employed or on layoff) Stelco requires high amounts of overtime during this period. Furthermore, employees and the union have been opposed to hiring or transferring from other establishments qualified persons to perform "overtime" work as it reduces current employee opportunites to work additional hours. The union also rejected proposals to hire, as temporaries with no benefit entitlements, persons on layoff. A recent arbitration decision stated that for an employee to be entitled to recall to a job, the job should exist for eight hours per day and 40 hours per week, and some arbitrators have implied it must also exist for at least 30 days. In addition, under the Employment Standards Act, an employee who is hired within 13 weeks after having been terminated could not continue beyond the 13 weeks without being considered full-time, thereby requiring the employer to give the employee two weeks notice. Finally, due to the capital intensive nature of the steel industry, increases in capacity are not a viable alternative to overtime work.

In total, Stelco's submission indicates opposition to any increases in legislated restrictions. The following recommendations were made. Standard hours should be 8 per day and 44 per week, with a weekly maximum of 48 but no daily maximum. Only employee consent is necessary for exceeding maximum hours where there is a permit from the Director. The maximum hours per week by permit would be 60 hours, and employee or the employee's agent may be consulted by the Director and he may require the employer to report on overtime hours utilization. Permission to work hours in excess of 60 would be given only if the employer specifies the period of time and reasons for such a request and such would be discretionary on the part of the Director. Overtime pay legislation should not be altered. Insofar as unemployment is concerned, the solution is to reduce the structural component through training, education in job search, etc. The question of overtime is best dealt with by the two parties involved in the collective bargaining relationship.

Canadian Federation of Independent Business

The Canadian Federation of Independent Business (CFIB) represents some 35,000 businesses in Ontario, primarily small businesses of fewer than 10 employees. It is the position of the CFIB that legislative standards were meant to be minimums and that it is union pressure, predominantly in larger businesses, pushing for tighter restrictions. A CFIB survey of 5,008 employers in April of 1986 indicated that of the various reasons for scheduling overtime, 84 percent responded "to handle peak business", 27 percent responded "absenteeism, vacation, etc." and 26 percent responded "have difficulty recruiting and training suitable staff". In response to the question, "If your use of overtime were further restricted by legislative changes, what would you do?", 72 percent said they would do nothing or continue as usual, 15.5 percent would replace overtime with part-time work, 7.4 percent would contract out the work. Seventy-four percent of respondents were opposed to increased overtime restrictions. It was noted that many of the businesses are seasonal and carry their "staff through the winter (and) expect them to help us in the summer when our work-load peaks."

Specifically, the CFIB recommends that: the Employment Standards Act permit compensatory time off or premium pay at time and one-half; daily and weekly maxima and the permit system for excess hours be eliminated; right of refusal to trigger at 44 hours, and the government investigate options for public education of this fact; and safety concerns be handled through occupational health legislation and various safety codes.

Chrysler Canada

Chrysler notes that overtime is a necessary component of the automotive industry in that freedom to schedule compulsory overtime is necessary in six situations: equipment failure and machinery breakdown, extreme weather, unusual absenteeism, parts shortage, transportation problems, and unlawful strikes. Inability to predict short-term demand changes requires sensitive and flexible work arrangements in terms of notification of overtime and its duration. Furthermore, voluntary overtime may permit the union to ban overtime work where there is a dispute. The submission lists eight recommendations. More exemptions from Part IV of the Employment Standards Act should be made. There should be greater numbers of hours before overtime becomes voluntary and permits are required (Chrysler suggests 60 hours in a week), and the excess hours designated under permits should be increased. The two-phase system of permits should be eliminated. There should be more administrative ease in applying for and receiving permits. Chrysler requests accommodation of the special needs of the automotive industry in the criteria for granting permits and requests no union input in the approval process. Finally, the submission recommends amendments to the Labour Relations Act prohibiting overtime bans and providing effective legal remedies for violations thereof.

Automotive Parts Manufacturers' Association of Canada (APMA)

APMA represents over 400 manufacturing and marketing firms ranging in size from four to over 2,000 employees, and states that overtime is generally not an issue to its members and that the 40 hour work week is the norm for its members. The Association believes that jobs will not be created by restricting scheduling of overtime hours but that companies will restrict output instead and the demand will be filled by out of province businesses. In general the APMA is against new overtime legislation or legislation which affects it. The Association believes that the permit system should be altered to make permits easier to obtain. Furthermore, in the case of a cyclical industry such as automotive manufacturing, overtime compensation provides employees with money to set aside in case of layoff and for increased purchasing power. Due to the Just-In-Time nature of the industry, overtime is almost a daily possibility. Amendments to legislation which further restrict company operations could lead to job loss and firm closure.

Council of Printing Industries

The majority of the workers in the Printing industry in Ontario are highly skilled and narrowly defined, attained through private training and apprenticeship. Standard hours are 35, 4 days of 7.5 hours and one day of 5 hours. Training requirements are lengthy. Products supplied are custom and inventories are not possible, resulting in extensive use of unscheduled overtime. At present non-organized and organized firms are competitive. However, with the majority of printing being performed in Toronto and Montreal, changes in legislative standards could shift production from Ontario to Quebec since Quebec has no legislated maximum hours of work nor any permit system. Similarly, the United States, which accounts for approximately 25 percent of product demand, has more lenient legislation. Consequently, the Council believes the appropriate direction for legislation ought to be towards fewer overtime restrictions. As far as worksharing is concerned, the council states that worksharing can only be successful through mutual consent, not through mandates by legislation. The Council is of the opinion that "the ability of the employee to refuse overtime sets the counterpoint for effective negotiations between the parties on the issue ... [n]othing more is necessary to protect the employee or the public interest ... [f]urther restrictions will only harm the competitive ability of Ontario's businesses."

The Union Consensus and Selected Summaries

In general, the union responses favoured reduction or elimination of overtime hours, consistent with the objective of decreasing total hours of work. The responses differ in degree and in their solutions to the problem of "excessive" overtime. Some of these differences relate to the view of what constitutes "necessary" overtime and what specifically is feasible within the particular industry. Differing experiences with overtime in different firms also affected responses. A majority of respondents agree that the standard work week should be reduced to 40 hours after which overtime rates of at least one and one-half times the basic rate. The United Steelworkers suggest overtime rates of double time and one-half after standard hours (legislated or, where there is a collective agreement, the agreed standard work week). The Energy and Chemical Workers suggest a double time equivalent of straight time pay plus equivalent time off.

Insofar as overtime will no doubt not be eliminated, there are a number of recommendations related to limiting hours under permits. First of all, unions believe that employees and/or their agents should be consulted before a permit is granted, and that overtime should be on a purely voluntary basis. The United Steelworkers Sixth District favours a complete overhaul of the permit system whereby the first 100 hour permit would be automatic if not objected to by the workers or their agent, and that the second permit would specify limits to overtime for specific job classifications while indicating an overtime reduction plan. An Overtime Standards Tribunal would be initiated to deal with all aspects of overtime permits. The union believes maximums of 500 hours per year and 20 per week would be sufficient. A significant number of submissions favour a 100 hour limit to overtime and any subsequent overtime hours must be given in equivalent time off. In order that there be no substitution of part-time jobs for full-time jobs many unions favour pro-rating part-time benefits and pay rates to that of full-time workers. This was particularly favoured by the public sector and quasi-public sector unions, where the incidence of part-time workers is the highest.

In terms of solutions to the overtime "problem" a number of opinions were put forward. Worksharing is seen as possible only if there are no reductions in gross pay. The Ontario Public Service Employees' Union suggests that the government should train work scheduling officers to assist employers in the adjustment to a shorter work week. The Ontario Federation of Labour notes that forms of employment which reduce hours of work on a daily and weekly basis ought to reduce absenteeism and the requisite overtime. The USW Local 1005 Health and Safety Committee notes that reduction of stress and fatigue in workplaces can increase productivity and efficiency while reducing absences created by long hours of work. A further solution is flexible work arrangements where multiple job training is provided to permit more equitable distribution of overtime or hours of work, and to reduce contracting out.

Ontario Nurses Association

The submission of the Ontario Nurses Association (ONA) focuses on six areas of concern: the need for overtime reduction, maximum hours of work (reducing the statutory maximum, overtime pay after 40 hours, part-time employees and the 48 hour maximum, exceptions and 12 hour shifts), consent of the union requirement for application of permit for exceeding statutory maximum, voluntary overtime, permanent overtime, and overtime premium increases.

Within the nursing industry the ONA sees overtime as a way to avoid hiring additional staff (an unacceptable situation) and that continued overtime requirements indicate the need for legislation to compel the employer to hire additional staff. Insofar as employers need only apply once for a permit to work employees beyond the statutory maximum (the permit being good until revoked) and the ease with which such permits are obtained, the ONA is of the opinion that the statutory weekly maximum should be reduced from 48 hours to 40 hours in order to indicate that the employer does not have the prerogative to work employees beyond the "normal" 40 hours of work. In conjunction with this recommendation the ONA believes overtime legislation should indicate premium rates of pay after 40 rather than 44 hours. The only exceptions would be ones dealing with flexible work arrangements. The ONA does not want changes in legislation which would affect the 12 hour shift arrangement.

At present the employer is not required to notify the union of its application for an overtime permit authorizing work hours in excess of the statutory maximum, and, upon issuance of the permit, management is not required to notify the union of its existence. Such notification would be beneficial in the sense that the union could challenge the need for the permit and ensure that the employer is complying with the law. Only when the employer applies for a permit to exceed the 100 hours per year or 12 hours per day maximums is the union consulted. Consultation at the initial stages may circumvent potential problems.

The union also believes overtime should be voluntary, and as such recommends that employers set up a pool of reserve workers (part-time or casual staff) who would work extra time on request. While this would require some sort of stand-by or on-call premium, overtime needs would be met without the overtime premium being paid thereby saving the employer money.

Finally, the ONA recommends increasing the statutory overtime rates from one and one-half time to double time to deter all but the most urgent overtime. The ONA cites U.S. evidence indicating that workers covered by a collective agreement providing for double time are less likely to work long hours than other workers not so covered (21 percent versus 30 percent respectively). Notes on a survey of ONA union members in 1982 indicated that the monthly average of the percent of members working some overtime during a month was 36.3 percent compared with 35.8 percent for the hospital sector employees. The majority of these workers work an additional eight hour shift. Some six percent of members worked in excess of eight extra hours.

Energy and Chemical Workers Union, Local 593

In the 1985 calendar year the average hours of overtime per worker were 141 on a workyear of 1,942 hours, overtime representing 6.8 percent of annual worktime. In spite of overtime provisions for overtime pay at the rate of double time the Energy and Chemical Workers Union (ECWU) has seen no effect on minimizing overtime use. The reduction in the work week to 37 ⅓ hours per week also has been of limited value since the legislation related to overtime permits and overtime hours ceiling has not comparably changed, resulting in the situation where employees are required to work even more hours of overtime up to the standard of 48. Refusal to work overtime in excess of 48 hours only results in contracting out, not in the expansion of those covered by collective agreement. Consequently, the ECWU submission makes five recommendations: one, that constant scheduled overtime be restricted to increase full-time employment opportunities; two, that all hours worked above the standard or contractual agreements be voluntary; three, that employees who work overtime receive straight-time pay and equivalent time off (essentially double time) in order to pressure the employer to hire more persons; four, that legislation be stronger where relating to protection of employee against contracting out; and, five, that the standard work week be reduced below forty hours.

Canadian Automobile Workers, Local 1967 – Aerospace

The Canadian Automobile Workers (CAW) is of the opinion that their employees in the aerospace industry work excessive overtime in every department and in every classification, which is an abuse of overtime on the company's part. The company, according to the CAW, has used overtime due to the skill shortage for high technology positions – at present only one apprentice was in a particular plant, indicating the lack of on-the-job training for some jobs. The union is of the opinion that training dollars could be better spent by training new employees to fill the high technology jobs rather than spending money on training programs for all workers which effectively creates plant-wide need of overtime, since training would be on company time and essentially paid education. Furthermore, due to the continuous nature of overtime, workers have become used to overtime work and the related pay and therefore they are essentially dependent on overtime work. Consequently, the voluntary overtime clause is not as important as it would be in other industries. In view of the aforementioned, two recommendations were made: that the union agree before any overtime permit is issued and that the company be made to implement an apprenticeship program and an on-the-job training program.

United Steelworkers of America – District 6

According to District 6 of the United Steelworkers of America (USW) there are a number of things which are very clear: that there is a significant amount of overtime currently being worked in many different plants in Ontario; that the causes of overtime are varied, from "legitimate" reasons (which include emergency maintenance, absenteeism, short-term demand fluctuations) to limiting the workforce by consistently scheduling overtime; that the use of labour pools has declined significantly (previously used for covering vacation, absenteeism, emergencies); that excessive, consistently scheduled overtime occurs in spite of part of the workforce being laid off; and that overtime is not usually a problem in small (less than 50 employees) bargaining units.

The USW surveyed 31 plants and found a number of interesting results. Overtime was worked in a majority of plants. Sixty percent of overtime workers deemed overtime to be excessive. Due to the nature of small bargaining units (lower cost benefit packages, fewer persons of similar skills) there is less of an incentive to schedule overtime and there are lower costs associated with hiring people. Where a plant had persons on layoff, the perception that overtime was excessive was almost universal. In only two cases did the respondent consider a shortage of skilled workers to be an important cause of overtime, and these two also cited three or more other causes as well.

The submission also presents three case studies. In one small bargaining unit, where overtime amounts to 16 hours weekly per worker, the local recognized overtime as necessary due to seasonal fluctuations. Another indicates that in a unit of 300 workers 90 percent of overtime is performed by production workers and 25 percent of the workforce works overtime (weekend work nearly every weekend). The requirement is as a result of (1) "on time" delivery which means frequent machine change-overs and therefore frequent time-loss due to machine shutdown and (2) emphasis on high quality which means more hours of product quality control. The apparent solution is either increased investment on the company's part or negotiation of more flexible work arrangements such as full weeks pay for 24 hours of weekend work as was negotiated at 3M. A third case indicated that some of 300 workers at Alcan, Sterling Road, Toronto worked in excess of 1,000 overtime hours in 1985. When the company was denied its current overtime permit in excess of 100 hours, the company responded saying that if denied the company would be forced to layoff some sixty workers. Apparently, after the permit was finally denied the company hired 20 full-time workers as well as 20 summer students – indicating that where excessive overtime is denied by ministerial permit employment can increase. In summarizing the various cases, the USW notes that while employers argue that overtime only amounts to 2-4 percent of regular hours, the fact that overtime can be excessive but localized to particular departments, especially in large corporations, indicates the possibility of filling more full-time positions. Note that management and white-collar workers do not usually work "overtime" under the strict definition, and managerial normal hours tend to be substantially longer than usual hours of production/maintenance workers and therefore the figures do hide certain aspects of overtime distribution.

In view of numerous objectives (maintenance of standard of living, job creation, and industrial competition), a number of proposals are put forth. Standards should be amended to 40 hours per week, 8 hours in a day, and 12 hour shifts with the permission of the employee or the employee's agent as long as weekly hours are not exceeded. Overtime premium should be payable after 40 hours in a week, 8 in a day and overtime should be voluntary, irrespective of collective agreement language.

The two-tiered permit system should be redesigned. The first permit of 100 hours would be automatic if the employees or their agent did not object and an objection would trigger an investigation. The second permit for overtime in excess of 100 hours would be granted only if fairly narrow criteria were met and upon the submission by the company of a plan designed to reduce its dependence on overtime. This second permit would specify hours of overtime permitted for specific job classifications and the company would be required to report on the number of overtime hours actually worked. It would further specify absolute limits on individual overtime hours beyond which no permit could be obtained and the permit would have a maximum duration of 12 months. In addition, no permit would compel overtime to be worked but only give the employer the right to request overtime work. The permit system would be administered by a new Overtime Standards Tribunal and with sole responsibility. An application for permit would initiate a public review, although such a review could be waived if no employees object in the case of first permit or if employer and employees make a joint application indicating consent. The Tribunal would have the right to place terms and conditions on the permits. Finally, the required overtime reduction plan in the case of a second permit would include: (a) an outline of the long-term alternatives to overtime available to the company; and (b) an overtime reduction proposal centred on one of those alternatives. Furthermore, the overtime reduction plan's effectiveness would be reviewed at each subsequent permit application and the effort the company put forth to implement the plan would be a key factor in permit renewal.

The USW believes that these recommendations would not affect adversely management flexibility in short-term or emergency situations. Due to the necessity for employer/employee involvement in the process, the role of the Tribunal would only be excessive when cooperation is lacking. Consequently, such recommendations should have a positive effect on labour-management relations. The limiting of overtime hours on the second permit is necessary in order to protect the health and safety of all workers – the submission believes maximums of 500 hours per year and 20 per week to be sufficient.

United Steelworkers of America, Local 1005, Health and Safety Committee

The Committee reports that all studies of health and safety aspects of overtime deal with the problem of fatigue, a problem which directly affects performance, efficiency and accuracy of the worker. Although actions by workers were not improper, it was found that they were untimely, that accuracy of judgement and implementation were seriously affected by prolonged duty. Accident rates apparently seem to increase with hours worked, and temperature extremes or variations tend to exacerbate fatigue rates. Furthermore, excessive overtime can cause fatigue, which may also lead to hypertension, ulcers, sleep disturbances and migrane headaches. A workplace which is a stress/fatigue inducing environment through noise levels, designated substances (e.g. benzene), etc. must be subject to greater review and concern when demands for overtime are increased.

United Steelworkers of America, Local Union 1005

This submission documents a number of cases within Stelco where the union and/or employee(s) has deemed overtime to be excessively used. The union also claims that the employer is trying to bypass the intent of the Labour Standards Act by asking workers to take time off after having worked overtime in order to prevent an employee work week of more than 40 hours. The union also documents intent by management "to reclassify some production jobs as maintenance jobs so that under the "blue permit" these workers will be able to work the permitted 12 hours overtime each week over the 48 hour week, instead of being limited to the 100 hours per year."

In the West Side Instrument Shop there was a dramatic increase in the use of overtime from 1982 to 1985, from an average of 0.6 eight hour shifts to 10.1 eight hour shifts. Total overtime hours increased by more than 1,200 percent while employment dropped by about 32 percent. In workhours per year the equivalent is 2 full-time jobs of 1,860 hours per year plus 492 overtime hours or 2 full-time jobs of 2,080 hours plus 32 overtime hours. The USW feels that limiting every worker to 100 hours of overtime per year, based on a legislated 40 hour week, and less if a collective agreement calls for fewer hours, is necessary. Companies should provide time off with pay for any hours over the 100 hours maximum. Legislated double time and one-half for hours worked in excess of the 40 would make callback of laid-off employees less expensive relative to overtime costs.

Ontario Federation of Labour

The Ontario Federation of Labour (OFL) sees the reduction of the work week to 32 hours as ideally creating an additional job for every 4 full-time worker only if overtime is similarly restricted. The submission notes that Volkswagon of Germany has stated that robotization will eliminate some 30,000 jobs if the 40 hour work week is maintained and that if the work week is cut to 35 hours only 15,000 jobs will be lost. France has shortened its standard work week to 39 hours with incentives for employers and unions to negotiate reductions to 35 hours. Belgium and the Netherlands have aimed at five percent cuts in worktime to create 100,000 jobs. The Swedish LO's objective is a 30 hour work week. Canada's average worker works 1,830 hours per year (excluding vacation and other paid time off), whereas the hours in Sweden, Belgium, Denmark and West Germany are 1,600, 1,700, 1,720, and 1,750 hours respectively. The OFL states that while individual preference may tend toward overtime, union philosophy is against the use of overtime.

The OFL recognizes that a major factor contributing to the use of overtime is the rise in compensation benefits as a proportion of payroll, which has risen from "about 15 percent of payroll in the 1950's to almost 35 percent today" and since most are not related to hours worked or are calculated based on basic pay (exclude premium pay), the incentive is to use overtime on more than just an emergency basis. The Federation is of the opinion that compulsory overtime should be banned, overtime hours should be strictly limited by redefining the standard work week to 40 hours from 48, overtime pay should start after 40 hours or 8 hours in a day. Furthermore, reduced overtime should lead to less absenteeism as health and safety improves. Regarding part-time employees, the OFL recommends pro-rated benefits and remuneration for part-time workers to prevent substitution of cheaper part-time labour for full-time labour. The Federation rejects the concepts of worksharing if it means less pay and the compressed work week and believes overtime permits should be eliminated (except in real emergencies) as should be the right to contract out.

Ontario Public Service Employees Union (OPSEU)

OPSEU bargaining units cover 96,000 employees primarily in the public and quasi-public sectors. The union believes the central issue to be reduction of structural unemployment through reduction of working time. One of the means which the union believes may help the unemployment problem is use of a compressed work week which means increased leisure, a drop in absenteeism, more intensive use of equipment and some reduction in overhead costs, and increased demand for leisure-related services. The negative aspects include harmful effects of a longer work day and temptation to take on a second job on weekends. OPSEU also recommends pro-rated benefits for part-time employees to discourage substitution of part timers for full timers. The union notes also that shift changes tend to have a negative impact on health of workers, and accordingly the union proposes limited use of non-day shifts through shorter nightshifts, longer shift rest breaks and longer weekends for shift personnel, banning double jobbing, and sectoral limitations on use of permits for nightshifts.

The union recommends that the work week be reduced to 35 hours, "a worthwhile short-term goal... achievable in the short-term." The government should train work scheduling officers to assist employers in adjusting their workforce to a shorter work week. OPSEU agrees with the following legislative proposals: increase the overtime premiums to double time, reduce the standard work week beyond which the overtime premium must be paid from 44 to 40, reduce the statutory maximum hours that can be worked without a permit from 8 per day and 48 per week to 8 per day and 44 per week, tighten up the granting of permits, guarantee that overtime is strictly voluntary at the employees option, and whenever a permit is requested that the affected workers must agree to it before the permit is granted.

Ontario New Democrat News Release, November 22, 1985

The release states that in order to reduce overtime, changes to the permit system are necessary. Section 20 of the Employment Standards Act states that the Director of Employment Standards may issue permits authorizing hours of work in excess of those prescribed by the Act subject to the limit of 100 hours in each year for each employee (certain exclusions). Thus a company with a permit can exceed the 48 hours limit by an average of two hours a week. And an employee can work up to 500 hours of overtime in a year (assuming a 40 hour normal work week) which is equivalent to 12.5 additional weeks at 40 hours per week.

PERMITS BY YEAR

Type	78/79	79/80	80/81	81/82	82/83	83/84	84/85
100 hour	219	265	229	211	180	294	374
Special	408	267	263	293	163	275	309
Total	627	532	492	504	343	568	683

Note: Special permits are those which exceed 100 hours.

Specifics noted:

(1) Inco unions have demanded an end to scheduled overtime as a way to eliminate the planned lay-offs. The Minister of Labour admitted that the use of overtime at Inco and Falconbridge "is a matter of no small concern."

(2) The Aluminum locals of the Steelworkers have asked the government to launch an investigation into the Ministry of Labour's policy of granting overtime permits in the aluminum industry. The union has asked that all overtime permits be cancelled until the investigation is completed.

(3) The UAW local for Northern Telecom at Brampton organized information pickets to complain about overtime. Since February of 1985 (to November) the company had laid off 470 plant workers (20.7 percent of plant workers) and 70 office workers (8.3 percent of office workers) and increased overtime to make up for lost production. Records indicate that in one week over 3,000 hours of overtime were logged in the plant (an average of 1.7 hours per plant employee) and in two weeks about 4,500 overtime hours in the office (5.8 hours per office worker).

(4) Local 1005 of the Steelworkers complained to Premier Peterson about "excessive and extraordinary" overtime being worked at Stelco while about 1,000 workers were on layoff. The Ministry of Labour indicated that it was going to conduct an investigation in October.

(5) In a Ministry of Labour report on overtime at General Mills the Ministry

revealed that "it found that during 1984, 117 of the approximately 170 employees worked hours in excess of the hours allowed by the permit issued by the Director."

Recommendations

(1) Amend the Employment Standards Act to restrict the work week to a maximum of 40 hours from the current 48 with a cap on overtime of 4 hours (i.e. 44 hours a week).
(2) Moratorium on the granting of overtime permits pending a full public inquiry.

CUPW Negotiations Backgrounder No.3, September 1984

Despite the provisions of the collective agreement there were over 1.5 million hours of overtime worked by CUPW members during 1983-1984 for an average of 67 days per employee per year – the equivalent of 900 full-time regular positions – and this was a decrease compared with previous years. The overtime pattern is to reduce overtime prior to elimination of positions and raise overtime and casual labour after position elimination instead of re-establishing regular positions.

The backgrounder contends that if the employer honoured the provisions of the collective agreement, there would be little overtime or casual labour. The related provision reads: "The corporate policy on staffing is that sufficient regular full-time and part-time staff are to be employed to maintain service standards for predictable workloads and absences and it is agreed that this policy will be followed." The term "sufficient" is the key. The union contends that the premium on overtime is not yet great enough to act as a sufficient incentive to require the employer to provide adequate regular staff. Clause 15.01 (a)(i) provides for an overtime premium of time and one-half for the first two hours worked prior to or following a shift. At time and one-half the rate for a postal clerk is $19.02. The actual cost to the employer of a regular hour for a postal clerk is $12.48 wages, plus $2.22 benefits. Thus on an explicit hourly basis a regular clerk would be cheaper than one working overtime hours. It turns out that the practise of offering two hours overtime and bringing in low cost casuals for four hours is less expensive than having a regular employee working six hours.

The article states that there is evidence that workers working longer hours on a regular basis have greater risk of heart disease and experience greater job dissatisfaction, job tension and lower self-esteem than workers working fewer hours. Furthermore, the Postal Workers experience the adverse effects of the employer's reliance on overtime instead of proper staffing: less job security, more injuries, and greater stress. In light of the above the postal workers demands include double time for all overtime to provide a financial incentive for proper staffing, restrictions on the use of casual labour to require work to be performed by regular employees, and no compulsory overtime.

Recommendations of the Task Force

After having received numerous oral and written submissions on the issue of hours of work and overtime, the Task Force came up with the following 22 recommendations.

1 The standard work week after which an overtime premium is payable should be reduced from 44 hours to 40 hours.
2 The mandatory overtime premium rate should remain at time and one-half the regular rate of pay, but after the new standard work week of 40 hours.
3 The current limitations on weekly hours and the 100-hours annual overtime permit system should be eliminated. In place of the 100 hours, employers would have an annual block of 250 hours per employee in excess of 40 hours per week (not transferable). The 250-hour block would be implemented over a period of three years. The block would consist of 400 hours in the first year, 300 hours in the second year, and 250 hours in the third and subsequent years.
4 The current requirement that overtime be voluntary after 48 hours per week should be replaced by a requirement that overtime be voluntary after the new standard workweek of 40 hours.
5 An employer may not require an employee to work more than 8 hours per day except as pertains to agreed-upon regular schedules as determined in accordance with the Act.
6 For regular schedules beyond 8 hours per day the following shall apply: a) compressed work schedules, flexible worktime arrangements, and regularly scheduled hours averaged over a regular period longer than one week may be adopted by the employer upon agreement between the employer and the certified bargaining agent or, where a union is not present, by a majority of the workforce affected. b) These schedules may not exceed 12 hours per day. Hours beyond 40 per week (or an average of 40 hours per week in the case of averaged hours) must be paid at the overtime premium rate. c) The use of such schedules shall be registered with the Employment Standards Branch. d) Ministry acknowledgement of the schedule must be posted in the workplace and shall contain information on the provisions of the Act relating to special schedules. e) Overtime work in excess of the daily scheduled hours that have been agreed upon and registered will be voluntary on the part of the employee.
7 The Director may issue a permit authorizing hours of work in excess of the

block grant of 250 hours. Although there can be no strict criteria for the granting of permits, some of the criteria to be considered would include layoffs, availability of labour, and skill shortages.

8 The labour union, where present, should be consulted by the Director regarding the granting of permits for excess hours.

9 The issuance of overtime permits should be subject to an appeals procedure by expanding the role of the referee system to make it more responsive to hours-of-work issues.

10 When an application for an overtime permit is made, the union or other recognized employee group should have the right to information regarding hours worked within the establishment. This information should pertain to the group for whom the permit is being sought.

11 When the union suspects a violation of an hours-of-work provision in the Act, it shall have the right to receive from the employer information regarding the hours worked by the group for whom the violation is suspected. Information provided must respect the confidentiality of the individual employee. The employer may refer the matter to the Branch should the union request be unreasonable – for example, too detailed or too frequent. Similarly, if the union is unable to obtain the data requested, it may work through the Branch.

12 The Employment Standards Act should be changed to provide for time-off at the premium rate in lieu of overtime pay at the premium rate when both parties are in agreement. Such time-off is to be taken within one calendar year of being earned.

13 An entitlement to unpaid leave should be incorporated into the Employment Standards Act, as follows: a) universal entitlement to one week unpaid leave each year after 10 years of service with one employer; and b) additional entitlement to unpaid leave beginning 4 years prior to retirement. The entitlement to leave would accrue at the rate of one week per year to a maximum of 4 additional weeks. The 10-year service requirement would also apply to this entitlement. The pre-retirement entitlement would not be available to employees who already have an equal or better provision. This is a one-time entitlement.

14 The standard for vacations with pay should be amended to include 3 weeks of annual vacation after 5 years of service, while retaining the current 2 weeks after one year of service.

15 The Ministry of Labour should establish a new office or agency to facilitate and consult on innovative worktime arrangements.

16 The provincial government should continue to review its work practices and to promote innovative worktime arrangements for its own workforce, to the extent that these are feasible.

17 The Ontario government should consider raising the issue of working time

at a federal-provincial conference as a means of placing the subject on the public policy agenda for the future.

18 The Ministry of Labour should take into consideration long hours of work as a factor when designing or revising occupational health and safety regulations.

19 The Ministry of Labour should initiate a study on the relationship of working long hours to occupational health and safety and to increased exposure to toxic substances.

20 The Ministry of Labour should mount a strong publicity campaign with respect to the Employment Standards Act, with special emphasis placed on hours-of-work and overtime issues.

21 The Ministry of Labour should require the posting in the workplace of the Employment Standards Act and any permits issued thereunder.

22 The Ministry of Labour should initiate a review of the hours-of-work provisions of the Employment Standards Act on a periodic basis, approximately every 5 years.

There were dissenting remarks by Judith Andrew on recommendations 13 and 14. First of all, the use of "community standards" should be understood as minimum acceptable standards and not the superior employment standards enjoyed by the large union organization membership or by employees of large firms who can afford the particular standard. The minimum should be set with the small firm and non-union sector experiences in mind. In Ontario 92 percent of firms have fewer than 20 employees, collectively employing one-fifth of private sector workers. Recommendations 13 and 14 act against the wishes of the Canadian Federation of Independent Business. Recommendation 14 is seen as having little if any effect on job creation in the small business sector while exacerbating the staffing difficulties. In Recommendation 13 the right of employees to unpaid leave is seen as encouraging the adversarial employer-employee stance while the pre-retirement entitlement to unpaid leave may provide a benefit to the smaller employer endeavouring to plan for the retirement of his employees.

IV
Canadian Legislation

In 1935 the Canadian Federal Government passed the Limitation of Hours of Work Act, pursuant to one of the three conventions adopted by the International Labour Organisation of the League of Nations, under the Labour Part (XIII) of the Treaty of Versailles of June 28, 1919. In 1937 it was held to be *ultra vires* of Parliament's powers to legislate with regard to the matter of limitations of hours of work since it comes under provincial legislative jurisdiction under the "Property and Civil Rights" heading of the British North America Act. Consequently, all jurisdictions in Canada have some form of legislation which relates to overtime. Only New Brunswick sets no limit on hours per day, week, or month. All jurisdictions provide for an hours limit beyond which overtime rates are payable. Nova Scotia, New Brunswick, Newfoundland, and Prince Edward Island set minimum overtime rates in terms of the minimum wage rate rather than in terms of the regular wage. British Columbia sets two overtime rates: time and one-half for hours in excess of 8 per day or 40 per week, and double time for hours in excess of 11 per day or 48 per week. Tables 4, 5 and 6 list the statutes and regulations, the standard maximum hours per time period, and overtime pay rates and hours. The first part of this section deals with a presentation of the particular parameters of each jurisdiction's legislation. The section ends with sample legislation from the federal sector on the permit system for hours of overtime.

TABLE 4
STATUTES AND REGULATIONS COVERING HOURS OF WORK AND OVERTIME IN CANADA

Jurisdiction	Legislation
Federal	Fair Wages and Hours of Labour Act (RSC 1970, c.L-3)
	Canada Labour Code, Part III (RSC 1970, c.L-1)
	Public Service Terms and Conditions of Employment Regulations
Alberta	Employment Standards Act (RSA 1980, c.E-10.1) Regulations

Table 4 (continued)

Jurisdiction	Legislation
British Columbia	Employment Standards Act (SBC 1980, c.10) Employment Standards Act Regulation Labour Regulation Act (RSBC 1979, c.213) Mining Regulation Act (RSBC 1979, c.265)
Manitoba	The Employment Standards Act (RSM 1970, c.E110) Regulation Respecting Minimum Wages and Working Conditions Regulations Respecting The Exclusion of Certain Crown Employees From Sections 31 and 32 of Part III of the Employment Standards Act
New Brunswick	Employment Standards Act (SNB 1982, c.E-7.2) Minimum Wage Regulation (NB Reg. 86-59)
Newfoundland	The Labour Standards Act (SN 1977, c.52) The Labour Standards Regulations, 1983
Nova Scotia	Labour Standards Code (SNS 1972, c.10) General Minimum Wage Order
Ontario	Employment Standards Act (RSO 1980, c.137) Industrial Standards Act (RSO 1980, c.216) Government Contracts Hours and Wages Act (RSO 1980, c.190)
Prince Edward Island	Labour Act (RSPEI 1974, c.L-1) Minimum Wage Order 1/82
Quebec	An Act Respecting Labour Standards (SQ1979, c.45) Labour Standards Regulations
Saskatchewan	The Labour Standards Act (RSS 1978, c.L-1) The Labour Standards Regulations The Minimum Wage Board Orders, 1981
Northwest Territories	Labour Standards Act (RSNWT 1974, c.L-1) The Labour Standards Wages Regulations
Yukon Territory	Employment Standards Act (SYT 1984, c.5) Employment Standards General Exemption Regulation

Source: CCH Canadian Ltd., *Canadian Labour Law Reports*.

TABLE 5
STATUTORY PROVISIONS ON HOURS OF WORK LEGISLATION IN CANADA

Jurisdiction	Maximum Hours Permitted
Federal	8 hours per day; 40 hours per week
Alberta	8 hours per day; 44 hours per week
British Columbia	8 hours per day; 40 hours per week
Manitoba	8 hours per day; 40 hours per week
New Brunswick	No limit on hours per day, week or month
Newfoundland	44 hours per week (8 hours per day; 40 hours per week for shop assistants).
Nova Scotia	48 hours per week
Ontario	8 hours per day; 48 hours per week (overtime after 44 hours)
Prince Edward Island	48 hours per week
Quebec	44 hours per week
Saskatchewan	8 hours per day; 40 hours per week
Northwest Territories	8 hours per day; 44 hours per week
Yukon Territory	8 hours per day; 40 hours per week

Source: CCH Canadian Ltd., *Canadian Labour Law Reports*.

TABLE 6
STATUTORY PROVISIONS ON OVERTIME LEGISLATION IN CANADA

Jurisdiction	Overtime Hours Specified and Overtime Rate
Federal	More than 8 hours in a day or 40 hours in a week: 1.5 times regular wage.
Alberta	More than 8 hours in a day or 44 hours in a week: 1.5 times regular wage.
British Columbia	More than 8 hours in a day or 40 hours in a week: 1.5 times regular wage; more than 11 hours in a day or 48 in a week: double regular wage.
Manitoba	More than 8 hours in a day or 40 hours in a week: 1.5 times regular wage.
New Brunswick	More than 44 hours in a week: 1.5 times minimum rate (1.5 times $4.00 = $6.00).
Newfoundland	$6.00 for each hour in excess of 44 in a week (8 hours in a day and 40 hours in a week for shop assistants).
Nova Scotia	More than 48 hours in a week: 1.5 times minimum rate.
Ontario	More than 44 hours in a week: 1.5 times regular wage.
Prince Edward Island	$6.00 for each hour in excess of 48 in a week (employees 18 years and over); $4.88 for each hour in excess of 48 in a week (employees under 18 years).
Quebec	More than 44 hours in a week: premium of 50 per cent of prevailing hourly wage.
Saskatchewan	More than 8 hours in a day or 40 hours in a week: 1.5 times regular wage.
Northwest Territories	More than 8 hours in a day or 44 hours in a week: 1.5 times regular wage.
Yukon Territory	More than 8 hours in a day or 40 hours in a week: 1.5 times regular wage.

Source: CCH Canadian Ltd., *Canadian Labour Law Reports*.

Hours of Work and Overtime

Federal Legislation

There are three pieces of legislation in the federal arena which deal with hours of work and overtime, each covering different types of employees. Under the Fair Wages and Hours of Labour Act, which applies only to contracts made with the Government of Canada for the construction, remodeling, repair or demolition of any work, hours of work shall not exceed 8 per day or 48 per week without Governor-in-Council approval or Ministerial permit. All hours worked in excess of 8 per day or 40 per week must be paid at the rate of at least 1.5 times the fair wages required to be paid under the contract. Pursuant to a recent amendment, excess hours may be established by Ministerial permit if the arrangement is supported by the employer and at least 80 percent of the employees specified in the permit and the arrangements in the permit are in the best interests of the class of employees specified in the permit, or there is a joint application by both parties to a collective agreement (s.29.1).

The Canada Labour Code, which covers persons and their employer employed in any federal work, undertaking or business that is within the legislative authority of the parliament of Canada except those performing management functions or employed in a confidential capacity in matters relating to industrial relations (Crown corporations and their employees unless they are excluded by the Governor in Council), states that overtime must be paid for all hours worked in excess of standard hours (8 hours per day, 40 per week) and that no employer shall cause or permit an employee to work in excess of the standard hours of work – however the "standard" may be extended to a maximum of 48 hours per week or such hours as may be prescribed for a particular industrial establishment where a ministerial permit is obtained or where emergencies arise. A formula is provided for the determination of the amount of overtime pay when hours of work are averaged and where there are irregular working hours. These stated provisions are *not* applicable in circumstances where there is an established practice that requires or permits an employee to work in excess of standard hours for the purpose of changing shifts or permits an employee to exercise seniority rights to work in excess of standard hours pursuant to a collective agreement. Exempted employees include persons exercising supervisory or managerial functions and members of designated professions (architectural, dental, engineering, legal and medical professions). Special provisions apply to employees under 17 years of age (see "Minimum Age for Industrial Employment").

The Public Service Terms and Conditions of Employment Regulations cover employees of the federal government within the scope of the federal public service except occupations in a managerial or confidential capacity. The regulations state that standard daily hours of work of every employee shall be 7.5 per day and 37.5 per week, and that hours may only be made greater and only if specified by a deputy head. "Overtime" is set at a maximum of 8 hours per week, and is defined as time worked in excess of an employee's standard hours, which excludes time worked on a holiday. Leave of absence with pay or compensation in lieu thereof may only be granted under certain conditions, some of which include (1) the deputy head has required it, (2) the employee does not control the duration of overtime, (3) hours exceed a minimum standard dependent on certain criteria. An employee whose standard weekly hours are less than 40 or who is engaged in specified employment may be granted leave with pay equal to the overtime period worked or pay in lieu calculated at the hourly rate of remuneration. If the employee's standard hours are 40 or more weekly, the employee is to be paid at the rate of 1.5 times the employee's regular rate of pay.

Alberta

The Employment Standards Act limits standard hours of work to 8 hours a day or 44 in a week. Working hours must be confined to 12 hours in any one day unless there is an emergency, the Director of Employment Standards issues an overtime permit, or a regulation allows an extension of working hours.

The Employment Standards Act defines "overtime rate" as a rate of pay at not less than 1.5 times the wages of an employee. If an employee works more than 8 hours in a day or 44 hours in a week the employee will receive either overtime pay for the overtime hours or time off in place of overtime pay. The hours of work on a general holiday are not included in computing overtime hours. The aforementioned does not apply to persons employed entirely in a supervisory, managerial, or confidential capacity, the determination of which is made by an Employment Standards Officer. Overtime is to be paid within ten days after the end of the pay period in which it is earned or any longer period approved by the Director of Employment Standards. Overtime is to be paid "forthwith" after the termination of employment.

Where an employee and employer have agreed that time off is to be taken in place of overtime pay, the time off must be taken within three months of the end of the pay period in which it was earned, or in accordance with the collective agreement. If the time off is not taken pursuant to the above requirement, the corresponding amount of overtime pay must be paid within ten days of the last date on which the time off should have been taken. The Act also permits employers and employees to enter into written overtime agreements which provide for time off in place of overtime pay.

All of the foregoing does not apply to employees on a farm or ranch whose employment directly relates to the primary production of eggs, milk, grain, seeds, fruit, vegetables, honey, livestock, poultry or bees, or to domestic employees working in a private dwelling. Exempted from the operation of the entire Act are public service employees, municipal policemen, and those excluded by legislation which include: employees employed entirely in a supervisory or managerial capacity, or a capacity concerning matters of a confidential nature, and whose duties do not, other than in an incidental way, consist of work similar to that performed by other employees who are not so employed.

TABLE 7

ALBERTA SCHEDULE OF EMPLOYMENT STANDARDS REGULATIONS PURSUANT TO THE EMPLOYMENT STANDARDS ACT OF ALBERTA – SELECTED EXAMPLES

Industry and Workers	Application	Overtime	Maximum Hours of Work
Ambulance	Drivers and attendants	1.5 times for hours in excess of 10 per day/60 per week	10 per day/60 per week
Chartered Accountants	Accountants and students registered with the Institute of Chartered Accountants	Exempted from statutory provisions	Exempted from statutory provisions
Highway and Railway Construction and Brush Clearing		1.5 times for hours in excess of 10 per day/44 per week	
Field Catering, Geophysical Exploration, Land Surveying, Logging and Lumbering	Undertakings 10 miles or more from a municipality having population of 1,000 or more in a municipality having population under 1,000	1.5 times for hour in excess of 10 per day/191 per month or if overtime agreement, time off in place of overtime pay.	10 per day/191 per month
Oilwell Servicing	Oil well servicing excluding actual drilling	1.5 times for hours in excess of 12 per day/191 per month.	12 per day/ 191 per month
Trucking	Bus and Truck drivers and their helpers outside city boundaries	1.5 times for hours in excess of 10 per day/ 50 per week.	8 hour rest between shifts required.

Source: CCH Canada Ltd., *Labour Law Reports*, p. 23, 161.

The degree of overtime is affected by the hours of rest determinations. In Alberta, the Act states that (sec.28) "An employer shall allow his employees at least (a) 24 consecutive hours of rest each week, (b) 48 consecutive hours of rest in each period of 14 consecutive days, (c) 72 consecutive hours of rest in each period of 21 consecutive days, or (d) 96 consecutive hours of rest in each period of 28 consecutive days."

British Columbia

The Employment Standards Act states that standard hours of work cannot generally exceed 8 in a day or 40 in a week, and that if a split shift is worked the employer must limit an employee's regular hours of work to 12 hours immediately following the start of his shift.

The Employment Standards Act provides that employees are entitled to be paid one and a half times their regular wage for all hours worked in excess of 8 in a day or 40 in a week, and double the regular wage for all hours worked in excess of 11 in a day and 48 in a week. Appropriate modifications are made where a week contains a general holiday. Overtime wage provisions established by collective agreement prevail over the terms of the Act. The Director of Employment Standards may authorize a variation of the above provisions where (a) hours of work are averaged over a period longer than a week, (b) less than five days are worked in a week, or (c) the basis for calculation of overtime wages has been established by agreement between the parties. Furthermore, where the Director of Employment Standards is satisfied that an employee's hours of work are excessive or detrimental to the employee's health or safety, he may order the employer to limit the daily and/or weekly hours of work to the standard. Except in the case of emergency, employees must have at least eight consecutive hours free from work between each shift worked. However, this rule may be modified by the Director upon joint written application by the employer and the employees or their representative and upon being satisfied of the unsuitability given the circumstances. The Act gives employees the right to have 32 consecutive hours free from work each week, and work during the period is to be remunerated at the rate of double time. Again, the rule may be modified by the Director of Employment Standards.

The overtime pay provisions (section 30) do not cover bus operators, truck drivers, miners, and first aid attendants in certain specified circumstances (section 14 of The Employment Standards Act Regulation.) Persons to which the hours of work and overtime legislation in the Act do not apply is covered in The Employment Standards Act Regulation, section 9.

The Labour Regulation Act sets the hours of work for persons employed at coke-oven, smelter, concentrator, or mineral separation plants. The Mining Regulation Act sets the hours for mining employees.

Manitoba

Part III of the Employment Standards Act provides that the standard hours of work for an employee are 40 in any week and 8 in any day, or, in the case of an employee to whom a board order or collective agreement applies, 40 hours in any week and the prescribed maximum hours in any day. Variations are permitted by the board where statute hours are recognized as not feasible.

The Employment Standards Act defines overtime as hours worked in excess of standard hours of work – a maximum of 8 hours in any day or 40 hours in any week – and that an employee is entitled to overtime rates for any hour or part of an hour worked in excess excluding meal intervals where the employee is not on duty. The overtime rates are one and one-half times the ordinarily paid rate on normal hours of work. Employers may establish 40 hour work schedules for periods of less than five days and for which the excess of 8 hours in a day is not paid at overtime rates through a collective agreement or permission of the Manitoba Labour Board. Any order made by the Board must be reviewed at least once a year. Shifts which require the employee to work in excess of labour standards for which overtime rates are not paid may be authorized by the board so long as the average hours of work per week do not exceed the labour standard or so long as the overtime rate is paid for the hours which exceed the standard. Subject to the provision of the Act, management rights are deemed not to include any implied right to require an employee to work overtime.

Those exempted from the application of the Act with respect to overtime include members of an employer's family, traveling salesmen who work on an incentive basis or who regularly travel more than ten miles per day in the course of their duties, independent contractors, persons employed as domestics in private homes remunerated by the householder where the domestic is not employed by the same employer for more than 24 hours in any week, persons employed in agricultural or fishing pursuits and not employed solely in selling produce, students-in-training, persons practising a profession, etc. Certain Crown employees are exempted by regulation from the overtime provisions of the Act (Regulations Respecting the Exclusion of Certain Crown Employees from Sections 31 and 32 of Part III of the Employment Standards Act).

New Brunswick

The Employment Standards Act provides that no employee under 16 years of age shall be employed for more than 6 hours per day, more than 3 hours on a school day, or spend more than 8 hours at school and work in any day. All other ages are not subject to any limit except where the Lieutenant Governor in Council has made regulations.

The Employment Standards Act provides that an employee who works more than the maximum hours of work established by regulation is entitled to be paid at a rate of not less than one and one-half times the minimum wage rate (s.16). The Minimum Wage Regulation provides for payment of overtime rates of 1.5 times the hourly minimum wage rate for hours in excess of 44 hours.

The Labour Standards Act provides that employees working hours in excess of labour standards must be paid at overtime rates by prescribed formula laid down in the Act. Overtime wages shall be paid at the rate of not less than $6.00 per hour for hours worked in excess of 8 hours per day and 40 hours in a week with respect to a shop assistant, and 44 hours in a week with respect to other employees, where an assistant is defined to be any person employed in a shop and engaged wholly or mainly in serving customers, receiving orders, dispatching goods, or in any office connected with a shop. Overtime provisions do not apply to persons engaged in domestic service in a private home or to those engaged in agricultural pursuits other than the production of fruit and vegetables in greenery and nursery operations.

Newfoundland

The Labour Standards Regulations set standard hours of work but set no maximum hours of work in any day, week or year. The Labour Standards Act provides that except in an emergency a worker must take 8 consecutive hours off in each unbroken 24-hour period of employment. Thus, maximum work hours per day are 16.

The Labour Standards Regulations state that overtime wages shall be paid at the rate of not less than $6.00 an hour for hours worked in excess of 8 in a day and 40 in a week with respect to a shop assistant, and 44 hours in a week with respect to other employees. Section 25 of the Labour Standards Act provides that the employer shall pay the employee such rate of wages for overtime as may be set out in the regulations by prescribed formula, which may differ for different classes of employees in different undertakings or part thereof. This section does not apply to any persons employed in (a) planting, cultivating and harvesting of farm produce other than the production of fruit and vegetables in greenhouse and nursery operations; (b) domestic service in a private home; or (c) the raising of livestock. Except in the case of emergency, an employee must take eight consecutive hours off work in each unbroken 24 hour period of employment.

Nova Scotia

The Labour Standards Code authorizes the Minimum Wage Board to determine the number of hours per day or per week that a person may work in industrial establishments, currently a maximum work week of 48 hours. The Code further authorizes the Minimum Wage Board to set overtime rates with the approval of the Governor in Council and is applicable to all persons except: farm workers whose employment is directly related to primary agricultural production, domestic servants in a private home, apprentices, qualified practitioners or students of certain professions, real estate and automobile salesmen, licensed insurance agents, persons employed on fishing vessels, salesmen other than route salesmen who are remunerated by way of commission and normally work outside the employer's establishment, persons employed in non-profit summer recreation programs, persons receiving government-approved training and those covered by special orders of the board. The Minimum Wage Order states that all work in excess of 48 hours in a week constitutes overtime payable at a rate of time and one-half the minimum rate, and applies only to time worked in excess of 96 hours in any two consecutive weeks for employees in the transport industry who are required to be away from home base overnight.

Ontario

The Employment Standards Act requires an employee be paid one and one-half times the regular wage rate for each hour worked in excess of 44 hours in a week. Exclusions from overtime provisions include full-time firefighters, persons employed in a supervisory or managerial capacity, hunting or fishing guides, students in certain recreational employment, persons performing homework, superintendents or caretakers of residential buildings residing therein, taxi cab drivers, ambulance drivers or their helpers or first aid attendants on an ambulance and persons engaged in specified agricultural or horticultural pursuits. The Employment Standards Act states that no worker shall work more than 8 hours a day or 48 hours a week, subject to certain exceptions. Regular work days exceeding eight but not in excess of twelve hours may be permitted on approval of the Director of Employment Standards provided total hours per week do not exceed 48. Neither the employer or employee may exceed the maximum hours determined under the Act. Maximum Hours may be exceeded in the case of accident or emergency and permits may be issued extending the hours to specific limits for certain categories of employees. For employees not included in the categories of firemen, engineers, full-time maintenance men, receivers, shippers, delivery truck drivers and their helpers, watchmen and others engaged in similar occupations, an extension of not more than 100 hours in a year may be granted. Permit issuance does not require an employee to work hours in excess of the legislated standard hours without his or his agent's consent. Under The Industrial Standards Act, upon recommendation of the Minister of Labour the Lieutenant-Governor in Council may order a schedule for a particular industry which establishes the rate of wages and periods for overtime work. The following industries are subject to schedules: Bricklaying and Stonemasonry, Ottawa and Toronto, Revised Regulations of Ontario (RRO) 514, 515; Electrical Repair and Construction, Ottawa and Toronto, RRO 516, 517; Fur, Ontario, RRO 518; Ladies' Cloak and Suit, Ontario, RRO 519; Ladies' Dress and Sportswear, Ontario, RRO 520; Lathing, Ottawa, RRO 521; Men's and Boy's Clothing, Ontario, RRO 522; Painting and Decorating, Ottawa, RRO 523; Plastering, Ottawa, RRO 524; Plumbing and Heating, Ottawa and Toronto, RRO 525, 526; Sheet-Metal Work Construction, Ottawa, RRO 527.

Prince Edward Island

The Prince Edward Island Labour Act empowers the Employment Standards Advisory Board to issue Orders establishing the minimum rates of wages to be paid employees for overtime work. The provisions are applicable to farm labourers engaged in what the board considers a commercial undertaking. Persons exempted from the minimum wage order include registered apprentices, farm labourers as defined by the Act, persons employed for the sole purpose of protecting and caring for children, handicapped and aging persons in private homes, persons whose primary source of income is derived from commission on sales and employees of nonprofit organizations who are required to live-in at facilities operated by such organizations. The maximum work week is 48 hours with hours in excess payable at $6.00 per hour for persons 18 years of age and over and $4.88 per hour for those under 18 years of age. The foregoing does not apply to ambulance drivers except in respect of the first 12 hours of overtime.

Quebec

The legislation provides that any work performed in addition to the regular work week entails the payment of a premium of 50 percent of the prevailing hourly wage paid the employee, except premiums paid on an hourly basis. Annual leave and statutory general holidays with pay are counted as days of work in computing overtime. The regular work week is 44 hours except where it is fixed by regulation, i.e. it does not apply to members of the employer's family, a student employed in a social or community non-profit organization, an executive officer, an employee who works outside an establishment and whose working hours cannot be verified, an employee engaged in the harvesting, canning, packaging and freezing of fruits and vegetables during harvesting, an employee of the fishing or fish processing industry, or a farm worker. For the purpose of computing overtime the standard work week of a domestic who does not dwell at his/her employer's premises is 44 hours and for a "live-in" domestic is 53 hours. The work week for employees of forest operations or sawmills is 47 hours. The work week for watchmen who guard property for an enterprise supplying a surveillance service is 44 hours and for any other watchman it is 60 hours. Persons employed in remote areas or on the James Bay territory have a standard work week of 55 hours.

Saskatchewan

Under the Labour Standards Act any employee who is required or permitted to work or be at the employer's disposal for more than 8 hours in any day or 40 hours in any week must be paid wages at the rate of time and one-half for each hour or part of an hour in excess of 8 hours in any day or 40 hours in any week provided that where the total of the daily excesses differ from the weekly excess, the employer shall make payment in respect of the greater excess. If meals times are posted such times will be excluded from working hours if the employee is not in fact at the disposal of the employer at such times. An employer shall be deemed to have permitted an employee to work if he has knowledge that the employee is working and does not cause him to stop working.

In order to provide a four day work week, an employer may, with written authorization from the Department of Labour, permit or require any occupational classification to work or be at his disposal for 10 hours in any day without paying overtime rates except where the employees work in excess of ten hours in a day or 40 hours in a week. If the employer obtains written consent of the trade union representing the employees and does not require or permit employees to work or be at the employer's disposal for more than 10 hours in any day or 40 hours in any week without payment of overtime rates of time and one-half, then no authorization is necessary.

An employee is not required, without his consent, to work or be at the disposal of the employer for more than 44 hours in any week, 36 hours where a general holiday occurs within the week, except in emergency circumstances. Emergency circumstances are defined as any sudden or unusual occurrence or condition which could not have been reasonably foreseen by the employer. The onus of proof is on the employer to show an emergency situation existed or that discrimination occurred for good and sufficient reasons.

Persons exempted from the overtime legislation include automobile salesmen, field employees of the government of Saskatchewan, products driver salesmen employed principally in selling and delivering bread or similar products, carbonated beverages, or dairy products to retail dealers from a motor truck in the areas outside the cities and a five mile radius therefrom, specific geographical areas, all logging industry occupations excluding office, saw or planing mill occupations.

Northwest Territories

The Labour Standards Ordinance states work in excess of standard hours, 8 in a day and 44 in a week must be remunerated at a rate of at least one and one-half times the regular rate of pay. Excluded are domestic servants in private houses, trappers and persons engaged in commercial fisheries, students of or members of such professions as may be designated by regulation, and managers, superintendents or persons who exercise management functions. Standard hours shall not exceed 176 hours in any period of four consecutive weeks for persons employed (a) in mining and hydrocarbon exploration and development in remote areas, (b) primarily in the transportation of goods to and from remote areas, (c) in tourist camps or (d) in any occupation designated by regulation.

Averaging the hours of work over a period of one week or more must be authorized by permit by a Labour Standards Officer. Upon application by an Employer and his employees the Officer may authorize a reduction in the number of days in the work week by permitting daily hours to exceed the standard daily hours. Every such permit shall specify the hours of work which is considered to be overtime.

Yukon Territory

The Employment Standards Act provides standard hours of 8 per day and 40 per week. Overtime rates of one and one-half times normal wages are to be paid for all hours worked in excess of the standard. Where schedules state and employees work 10 hours per day for 4 days or 12 hours per day for 3 days due to an agreement with the employer, the employer is not required to pay overtime rates for hours in excess of 8 hours per day. Exempted employees include members of an employer's family, traveling salesmen, managerial and supervisory personnel (excluding persons who only occasionally perform such duties), and members of certain professions. The Employment Standards General Exemption Regulation specifies further exclusions.

Federal Legislation on Overtime Permits, Canada Labour Code

Section 29.1 Excess standard hours under ministerial permit

(1) Subject to this section, the Minister may issue a permit subject to such

conditions as he deems advisable establishing hours of work in excess of eight hours in any day or forty hours in any week for a class of employees specified therein employed upon or in connection with the operation of any industrial establishment specified therein in accordance with arrangements specified in the permit including the hours of work for each day, if the average hours of work for a period of two or more weeks calculated in the manner prescribed in the permit do not exceed forty hours a week, and an employer may cause or permit an employee to work longer hours than eight hours in any day or forty hours in any week in accordance with any permit issued hereunder.

(2) Specification – A permit issued under subsection (1) shall specify a number of days for the purpose of paragraph 56(1)(b).

(3) Restriction – No permit, other than a permit in respect of a class of employees subject to a collective agreement, shall be issued under subsection (1) unless the Minister is satisfied that the arrangements specified in the permit (a) are supported by the employer and at least eighty percent of the class of employees specified in the permit; and (b) are in the best interests of the class of employees specified therein.

(4) Cancellation of Permit –The Minister may, after giving such notice as he deems advisable, cancel any permit issued under subsection (1), other than a permit in respect of a class of employees subject to a collective agreement, where he is satisfied that to do so would be in the best interests of the class of employees specified therein.

(5) Employer Ceasing to Follow Permit – An employer may cease to follow the arrangements specified in a permit issued to him under subsection (1), other than a permit in respect of a class of employees subject to a collective agreement, if he, at least thirty days before ceasing to follow the arrangements, (a) gives notice in writing to the Minister of his intention to so cease; and (b) posts a copy of the notice in a place accessible to his employees where it is likely to be seen by them.

(6) Restriction Where Collective Agreement – No permit shall be issued under subsection (1) in respect of a class of employees subject to a collective agreement, unless a joint application for the permit has been made to the Minister by both parties in the collective agreement.

(7) Cancellation of Permit –The Minister may, on joint application by both parties to a collective agreement, cancel any permit issued under subsection (1) in respect of the class of employees subject to the agreement.

Section 30 Maximum Hours of Work

(1) An employee may be employed in excess of the standard hours of work but, subject to sections 30.1, 33 and 34 and to any regulations made pursuant to section 32.1, the total hours that may be worked by an employee in any

week shall not exceed forty-eight hours in a week or such fewer total number of hours as may be prescribed by the regulations as maximum working hours in the industrial establishment in respect of which he is employed.

Section 30.1 Maximum Hours of Work

In a permit issued under subsection 29.1(1) the minister may authorize hours to be worked by the class of employees specified therein in excess of the maximum hours of work prescribed by or under section 30 or by regulations made pursuant to section 32.1, if the average maximum hours of work for a period of two or more weeks, calculated in the manner prescribed in the permit, do not exceed forty-eight hours a week.

Section 33 Excess Hours Under Ministerial Permit

(2) Justifying Permit – No permit may be issued under subsection (1) unless the applicant has satisfied the Minister that there are exceptional circumstances to justify the working of additional hours.

(5) Report To The Minister – Where a permit has been issued under this section, the employer for whom or on whose behalf the permit was issued shall report in writing to the Minister, within fifteen days after the expiration of the period specified in the permit or within such time or times as the Minister may fix in the permit, stating the number of employees who worked in excess of the weekly hours prescribed by or under section 30 or by regulations made pursuant to section 32.1 and the number of additional hours each of them worked.

Section 34 Emergency Work

(1) The maximum hours of work in a week as prescribed by or under section 30, authorized pursuant to section 30.1 or prescribed by regulations made pursuant to section 32.1 may be exceeded in case of (1) accident to machinery, equipment, plant or persons; (2) urgent and essential work to be done to machinery, equipment or plant; or (3) other unforeseen or unpreventable circumstances; but only to the extent necessary to prevent serious interference with the ordinary working of the industrial establishment affected.

(2) Reporting Additional Work – Where the maximum hours of work in an industrial establishment have been exceeded under the authority of this section, the employer shall report in writing to the Minister, within 15 days after the end of the month in which the maximum hours were exceeded, stating the nature of the circumstances in which the maximum hours were exceeded, the number of employees who worked in excess of the maximum hours, and the number of additional hours each of them worked.

V

Collecitve Bargaining, Overtime, and Arbitration

Scope of Overtime Provisions

Overtime is usually understood to mean work over and beyond the regular hours which an employee is required to work, and it has been suggested that overtime premiums are intended to induce the employer to restrict overtime. Voluntary extra work does not qualify. "Regular hours" necessarily excludes regular non-working hours which include the sixth day of a work week, vacation days, holidays, lunch hour, etc.

Overtime may be defined in terms of "day", "calendar day", or "a 24 hour period". It is the specificity of agreement provisions which commonly leads to grievances and arbitration. Common interpretations deal with a "day" meaning a 24 hour period beginning with the start of a shift. A 24 hour period is usually any 24 hour period. Work commencing on Friday but ending on Saturday is not covered by the phrase "hours worked on Saturday". References to "working day" in the context of overtime is interpreted in terms of past practice – scheduled shift changes which result in two shifts in a 24 hour period have been held not to result in overtime. Where the phrase "time worked" is used, the reference includes time related to work, i.e. time during which one is able to perform work and is awaiting instruction but during which no actual work is performed (e.g. on-call time).

Overtime work differs substantially from that of regular work time in that provisions of a collective agreement may make overtime mandatory/compulsory or voluntary, and, as Palmer notes (p.338), legislation tends to impinge on the question of voluntarism. The possibility exists for employers to require an employee to work compulsory overtime. In certain instances determination of compulsory overtime is not restricted to explicit reference in the collective agreement. Certain arbitrators have implicitly derived the requirement for compulsory overtime work. In the case of voluntary overtime the central issue is one of absence after agreeing to work – whether the reason was legitimate. Palmer further notes that "where an employer must attain permission to work employees more than a certain number of hours, the employees would seem to have a complete right to refuse such requests."

In deciding whether suspended employees were within their rights to refuse overtime hours in excess of the 48 hours legislated in Ontario, an arbitration board dealt with the following 6 points and decided the discipline was permissible – that consent was given (*Re Canadian Industries Ltd.*, 6 LAC(2d) 256 at 259-260).

(a) Performance of overtime work is compulsory unless the terms of the collective agreement make it voluntary.
(b) By not previously imposing disciplinary action against employees who may have refused an overtime work assignment, management has not thereby confirmed the concept of voluntary overtime.
(c) The type of proposals made by the union at negotiations serves to support the conclusion that both parties agree that under the current collective agreement overtime work assignments are compulsory.
(d) Past procedures adopted by the company to assign overtime work may tend to support the conclusion that overtime was considered voluntary. However, when no problems had arisen under this system, and when the parties have obviously not been ad idem as to whether overtime was voluntary or compulsory, then these past procedures do not support the conclusion that overtime-work assignments are voluntary.
(e) One must find a limitation in the collective agreement in respect to management rights which specifically confirms the intention of the parties that the performance of overtime work is voluntary. For the purpose of efficiency, the rights of management are negated if it could not require overtime work subject to any provision in the collective agreement which specifies or supports the conclusion that overtime is voluntary.
(f) Any modification of the normal rights of management to require the performance of overtime-work assignments must be clearly defined in the collective agreement, particularly when the collective agreement, through its terminology, contemplates that overtime will be required and worked.

In the Dissent from the board's decision in this case, the dissenter, P. Grasso, responded to all 6 points in the following manner (p.262):

> In answer to point (a); in the absence of a voluntary overtime clause in the agreement, then overtime is compulsory by implication, but only to the extent of 48 hours per week and not beyond eight hours per day.
> In answer to point (b); management has not confirmed the concept of *unlimited* compulsory overtime.
> In answer to point (c); the union proposals tabled as evidence clearly set out that it agreed that overtime was compulsory up to 48 hours per week, and attempted to reduce that, to at least 44 hours per week.
> In answer to point (d); the union asserts that the past procedure of assigning overtime on the volunteer system was the correct method under the *Employment Standards Act* ...

> In answer to point (e); the union asserts that there is no limitation on compulsory overtime other than that provided under s.7 of the collective agreement, placing a maximum limit upon the working hours of an employee of eight hours in a day and 48 hours in a week.
> In answer to point (f); the union asserts that compulsory overtime is limited by the Act to 48 hours per week. Beyond that, under s.11(2) of the Act, it is the right of the employee to decide whether to consent. This agreement does not contain any such consent. By reading such consent into the agreement, the board has varied the agreement. Under art. 11.02 of the agreement, the board is forbidden to alter, amend, subtract, or add to, this agreement.

The board was of the opinion that consent was in the collective agreement, art.IV(b):

> The normal number of hours of work per day is stated solely for the purpose of calculating overtime and shall not be construed as a guarantee of any minimum nor as a restriction on any maximum number of hours to be worked. (p.261)

It has been generally held that an employer is not precluded from contracting out instead of using overtime as long as the collective agreement has provided for equal opportunity among employees to work overtime and for posting of overtime hours performed by employees in each department, based on the rationale provided in *Re Hayes Steel Products*, 7 LAC 209 at 210-211. The rationale in *Hayes Steel* stated that (a) the contract did not prohibit contracting out, (b) the contract nowhere specifically states the company is bound to schedule overtime, (c) "any limitations on the general powers of management to determine the means and methods of manufacturing must be expressed in clear and explicit terms", (d) if the powers are limited by forbidding contracting out and rather using overtime then it is arguable that overtime must be allotted before workforce is increased or extra shifts introduced, (e) the obligation to schedule overtime implies the obligation to work overtime (compulsory). Consequently the company is obligated to give its employees an opportunity to perform scheduled overtime.

Unless otherwise specified, overtime scheduling is at management's discretion and avoidance of overtime may occur through rescheduling or altering shifts. Although cancellation of overtime by management can only occur for bona fide reasons (*Re Webster Air Equipment*, 13 LAC(2d) 445), management is not required to show that overtime is necessary (*Re Massey-Harris*, 4 LAC 1227 and *Re Timken Roller Bearing*, 2 LAC 693). Furthermore, employers may discipline employees for refusal to work compulsory overtime or unexcused absence from agreed overtime work. It is also important to realize that concerted refusal to work overtime, even if voluntary, is a violation of the collective agreement and constitutes a strike by those involved (*Re Associated Clothing Manufacturers*, 2 LAC 701, *Re E.S. and A. Robinson*, 21 LAC 354, *Re Greening Industries*, 22 LAC 165). The *Re Associated Clothing Manufacturers* case states that "[t]he basic purpose of the Collective Agreement is to prevent unilateral action, be it by the employers or the employee."

Legislative requirements set both limits on hours of work in excess of standard work hours and overtime rates for those hours, affecting the employer's right to schedule overtime. Where a permit is necessary, consent of the employee or the employee's agent is also required. In *Re Adams Mine Cliffs*, 8 LAC(2d) 204 at 210 the arbitrator states the following:

> ... there is nothing in the collective agreement which purports to express the consent of the employee or of the union as his agent to perform work in excess of the hours limited by s.14(1) of the Act (Ontario Employment Standards Act). The collective agreement merely preserves the right of management to schedule employees as it deems proper. If the parties to a collective agreement wish to negotiate a clause which would express consent of the employees or their agent to work overtime as contemplated by s.18(2)[now s.20(3)] of the Act, specific reference to the Act and the consent required by s.18(2) must be embodied in the collective agreement. The consent of employees cannot be inferred from the fact that the parties have agreed to continue the prerogative of management to schedule overtime work. The Act takes precedence over such general provision.

In contradiction to this arbitration, in *Re Walker Exhausts*, 24 LAC(2d) 163 the arbitrator found that "[i]f the parties have included language in the collective agreement which can fairly be construed as agreement to work these excess hours we can find no basis or reason for requiring more". Specific reference to the statute in the Act was not required, only reference to hours specified in the Act.

An employee has no rights to be assigned work on an overtime basis unless specified in the agreement. The work may be done by rescheduling shifts, recalling employees, etc. Distribution of overtime work is dependent on the nature of the job and the employees qualified to perform all aspects of the job or the required aspects of the job for the overtime hours scheduled. Usually the term "normally perform the work" is found in clauses relating to distribution of overtime. In *Re Monroe Acme* 23 LAC 177 the arbitrator noted that the term "normally" refers to the frequency of performing the job and not to the normal aspects of the job, i.e. content and methodology. Furthermore, as stated in *Re Phil Wood Industries*, 14 LAC 340, where the specified work is inherently unusual (not normally performed) no individual or group can claim it should have been assigned the overtime.

There are two remedies for breach of the distribution of overtime clause: provide the opportunity to work overtime or award compensation on the basis that the employee had in fact worked the overtime. However, the former suggestion has been viewed inappropriate

> where the work in question was given to an employee in another classification; where the period of equalization of overtime opportunities has passed; where the employee was no longer in the same classification; where problems with respect to other employees in the group would be vested; where the assignment absolutely required the selection of the employee with the least number of overtime hours; or where the overtime work is given to an employee who is outside the bargaining unit. On this approach monetary relief is only given where an "in kind" remedy would be inappropriate in the circumstances. (Palmer, p.643)

Pyramiding of overtime has been a problem to companies facing "aggressive" unions. To explain pyramiding assume a production worker is employed under a contract requiring overtime rates of 1.5 for work in excess of 40 hours per week, double time on the normal day of rest, and triple time on paid holidays. Under pyramiding, if the worker worked on a day which met with all these criteria he could legitimately claim payment for 6.5 times his normal rate. The rule against pyramiding states that where an employee seeks more than one premium for the same work, the onus is on that person to advance some reason why each should be paid. Recent arbitrations have shown shift differentials and overtime premiums can apply to the same work (*Re Texaco*, 10 LAC(2d) 221; *Re Hydro Electric Power Com. of Ontario*, 12 LAC 105; *Re Canada Foils*, 19 LAC 181; *Re Silverwood Dairies*, 20 LAC 406; *Re Ottawa Bd. of Education*, 23 LAC(2d) 350). Cases where the reverse was decided are listed in *Re Gardner-Denver*, 19 LAC 409 (*Re Phillips Electrical Works Ltd.*, 3 LAC 1171; *Re John Inglis Co. Ltd.*, 4 LAC 1457; *Re Dominion Glass Co. Ltd.*, 15 LAC 8; *Re Northern Electric Co. Ltd.*, 16 LAC 208). Overtime rates are calculated, unless otherwise specified, on the base rate of pay excluding premiums or cost-of-living adjustments. Further, for the purpose of calculating overtime hours, some arbitrators have refused to include time for which a premium rate is paid in the calculation of an employee's regular hours because to do otherwise would constitute improper pyramiding of benefits.

Arbitration Cases

The preceding section has illustrated some of the overtime related issues from which arbitration cases are born: pyramiding of benefits, scheduling rights, voluntary and compulsory, and distribution of overtime. This section will further illustrate the issues by first presenting one detailed case example, *Noranda Metal Industries Ltd* and then providing summaries of selected arbitration cases which cover a broad range of overtime issues.

Noranda Metal Industries Ltd. v. Canadian Association of Industrial, Mechanical and Allied Workers, Local 4 (1986), 86 CLLC para.16,038 (BCLRB)

The union posted an overtime policy stating that overtime should not exceed four hours on any one occasion. Following an incident requiring employees to work additional overtime the union disciplined the offending members and refused to discuss the issue with the employer. The employer applied for a declaratory opinion as to whether the refusal to work overtime constituted an unlawful strike.

Statement of Facts

The Employer recognizes that overtime is voluntary under provisions of the collective agreement but holds the position that there is no restriction regarding the amount of overtime which an employee can work on any one occasion. The union disputes this position. September 1983 the employer issued a policy statement stating overtime following an eight hour shift will not exceed four hours. The extension of overtime requires a management representative for approval. The union's response was a policy statement reiterating the first part of management's statement and stating further that some flexibility may be allowed under emergency circumstances and the decision for flexibility shall come from the plant committee after it is satisfied the company has made every effort to call in other qualified workers. The Employer maintained that hours of work are exclusively a management right.

In April 1985 two maintenance workers worked more than four hours repairing an extrusion press. Prior to the overtime, time estimates for repair were less than four hours. When it became obvious that more than four hours were necessary the employer called a replacement and the working maintenance workers continued working until the replacement arrived. While the employer understood the "violation" to be an internal union matter, the employer wrote an explanatory letter regarding the circumstances. The union reinforced that the matter was internal and subsequently the Local Union trial board imposed a small fine on the two employees. In June of 1985 the Local Union President's report reiterated the position, "stating that no worker should work in excess of 12 hours in a row", and that ignoring the policy could result in loss of membership in the union. The employer subsequently applied to the board for an order enjoining the Union from imposing restrictions on overtime and included a request for a declaratory opinion on whether a refusal to work overtime in excess of four hours constituted an unlawful strike under the Labour Code.

Arguments

The employer stated that the problem with overtime arises mainly in connection with maintenance work where it is sometimes very difficult if not impossible to predict in advance how long repairs will take. The employer said it agreed with the four-hour rule in normal circumstances but it cannot afford to have a rigid four-hour rule. The employer contended the union overtime policy was contrary to the Labour Code.

The Union opposed the employer's application on the grounds that (a) the application interferes with internal union affairs, (b) the employer's and the Union's overtime policies are basically the same, (c) the effect of union policy has not affected the employer's operations in that no overtime work has been lost due to union policy and the Employer has suffered no difficulties whatsoever in any practical industrial relations sense, and (d) the board has been requested to make a declaratory opinion for purely speculative purposes.

The Board

Declaratory opinions "will" only be issued where "necessary and proper", i.e. not where the facts are uncertain or subject to change, where the parties have resolved their differences and the issue is academic, and where there is no "live" conflict between the parties. Where an issue is current and is the cause or potential cause of labour relations conflict the board has generally determined that a labour relations purpose would be served by issuing a declaratory opinion. The board noted that while there had been no actual disruption of work, "one would have to be completely insensitive to conclude that there is no labour relations dispute between the parties." Due to the position that the employer is in vis-à-vis union overtime policy the board concluded that this was an appropriate case for a declaratory opinion. The board noted that union policies are not immune from a challenge where they are also contrary to the provisions of a collective agreement or the Labour Code.

Part 5 of the Labour Code, s.79(1), provides that employees bound by a collective agreement shall not strike during the term of the agreement and that a person shall not declare or authorize a strike of those employees during the term. Strike is defined to include a cessation of work, refusal to work or to continue to work by employees in combination or in concert or in accordance with a common understanding, or a slowdown or other concerted activity on the part of the employees that is designed to or does not restrict or limit production or services, but does not include a cessation of work permitted pursuant to s.83(3), or a cessation, refusal, omission or act of an employee that occurs as the direct result of and for no other reason than picketing that is permitted by or under the Act, and "to strike" has a similar meaning. The board concluded that it should not adjudicate the question of whether employees can refuse to work more than four hours overtime pursuant to the union's policy due to the following reasons: (a) the board is reluctant to enter the realm of collective agreement interpretation which should be left to the arbitration process; to decide on the issue requires evidence of past practice, negotiation history and collective agreement provisions; (b) there have only been isolated incidents where the policy has been a problem to the employer – the infrequency persuaded the board that the matter could be properly addressed in arbitration; and (c) the present agreement "expires March 31,1986 ... the parties should address the issue of overtime as part of the current round of negotiations."

In sum, the board found it proper to issue a declaratory opinion in part. The board declined to determine whether the conduct complained of constituted a strike but declared the union's overtime policy and the refusal of any employee or employees to work more than four hours overtime pursuant to the policy is contrary to the Labour Code if the overtime is work as defined in the collective agreement. The issue of contract interpretation was referred back to the parties for resolution by arbitration or, preferably, through collective bargaining.

Re Hamilton Railway Co. and Amalgamated Transit Union Local 107

(1982), 1 LAC(3d) 355

Two employees, the grievors, were sent to Flint, Michigan to make repairs to a company vehicle. The grievors left at approximately 12.30 p.m. on Saturday in a service vehicle and arrived at Flint the same day at 7.30 p.m. The grievors had dinner and commenced work at 8.00 p.m. Some parts the grievors had taken with them were then found to be of the wrong size and description. The grievors had been given these parts. The grievors were told to stay in Flint and the foreman would bring the proper windows to finish the job. The grievors performed as much work as they could, stopping at midnight that day. They slept at a local motel, paid for by the local senior bus driver, until 5.00 a.m. Sunday when the foreman arrived in Flint with the remaining windows. The grievors had been on their days off and accordingly the company paid them for 18 hours at the appropriate overtime rate. The issue is whether the grievors should be paid for time spent at rest and while eating.

The union submitted that since the employees were instructed to remain in Flint they were at all times under the control of the employer and that they were in a position to perform the necessary work when called upon and thus were on duty. The union argued that the only reason that the employees remained in Flint was because of lack of parts, which was beyond their control. The company submitted that overtime is to be paid for all time "worked"– sleeping and eating do not constitute work. Further, the employees were not on call or on duty, nor could the company exert any influence over them as there were no parts, therefore no work could be performed until the parts arrived.

The arbitration board viewed the term "worked" as not requiring the employees to be actually performing their duties – payment for travel time to Flint implicitly acknowledges the term as encompassing more than actual duties performed within the job classification. A few important notes were made by the board: a) most cases referred to grievors engaged in normal duties when adverse weather intervened, i.e. abnormal situation, b) grievors were within their normal geographic locale. Thus this particular case involves grievors unable to return to their normal geographic locale due to human error. The following cases were cited:

> *Waterloo North Hydro Com'n and Int'l Brotherhood of Electrical Workers, Local 636*, August 24, 1978, unreported – One of two grievors, having been told to remain at his work station, was therefore available for work, and though sleeping the night, was entitled to overtime payment.
>
> *Kitchener-Wilmot Hydro Com'n and Int'l Brotherhood of Electrical Workers, Local 636*, October 23,1978, unreported –The board found that active engagement in work was not necessary to qualify for overtime, only a position to do work.
>
> *Re Int'l Nickel Co. of Canada Ltd. and Canadian Guards Assoc., Local 105* (1977), 16 LAC(2d) 411 – Guards assigned to plant protection during a strike and who remained at the plant and slept there were entitled to overtime pay even during the time that they slept.
>
> *Re Union Gas Ltd. and Oil, Chemical & Atomic Workers, Local 9-14*, (1979), 23 LAC(2d) 235 – Adverse weather conditions alone did not indicate that the employee was on duty, and there was some question as to the effort made to return home.

The decision by the board was that the grievors were entitled to overtime payment based on the determination that the grievors were on duty at all material times and subject to the direction of management and thus were not free to engage in personal activities of their choice. The evidence of only five hours sleep, immediate return to work on the arrival of materials, the lack of freedom to return to their homes, and the material error being the responsibility of the company were the major factors in the decision. Both the hours of sleep and meal periods were times that the grievors were on duty. The dissent was based on a narrower definition of work, that sleeping and eating were not time worked, and that omission of them from the relevant provision cannot be corrected by reading them into the provision.

Re Chrysler Canada Ltd. and Canadian Union of Operating Engineers & General Workers, Local 100
(1985), 22 LAC(3D) 342

The grievor worked three "overtime" shifts of eight hours each on three consecutive days. The main contention revolved around the concept of what constituted a day, i.e. any 24 hour period or a specified 24 hour period termed a calendar day.

The collective agreement provides overtime pay for work in excess of eight hours per day or in excess of eight continuous hours and for time worked on Saturday. The corporation pays double time on Sundays and holidays. The overtime payment excludes premium payment on any other basis.

The general supervisor of payroll testified: that the first eight hours of shift are straight payroll and time thereafter is time and one half; that the 24 hour period deemed to be one day starts at the commencement of the employee's shift. In addition, the collective agreement precludes pyramiding of overtime.

The union contended (a) that the work day began at 12.01 a.m. of each day since the collective agreement states that the work week begins at 12.01 a.m. on Sunday and (b) that the plant chairman stated that the intent of the word "day" was to mean calendar day. Further, since overtime cannot be paid for regularly scheduled work, the overtime hours can be worked in advance of the regular shift. In sum, the grievor worked 12-8 and 4-12 on Friday and 8-4 and 4-12 on Saturday. The shifts 12-8 Friday and 8-4 Saturday were regular shifts. The union said that 4-12 Friday and 8-4 Saturday shifts were within a regular days period and since 8-4 Saturday was regular shift work the preceding work period within a 24 hour period was therefore overtime and payable at overtime rates.

The company argued that (a) the time worked was not continuous as stated in the collective agreement, (b) company practice is to calculate the first eight hours of work as straight-time regardless of whether the eight hours are regular or not, and (c) company practice deems for overtime purposes the 24 hour period commences with the start of the shift actually worked and ending 24 hours later. The company relied on *Re Robson-Lang Leathers Ltd. and Canadian Food & Allied Workers, Local 250L* (1973), 2 LAC(2d) 400.

The arbitrator said that the inclusion of the items Sunday and Saturday imply that the other five working days are also intended to be calendar days. The company is obliged to pay overtime for: (a) all time worked in excess of eight hours per day (i.e. a calendar day), or (b) all time worked in excess of eight continuous hours. As a result of the interpretation of the provisions in the collective agreement the arbitrator finds that the grievor is entitled to more overtime pay than that which was claimed but only allows payment to that amount that the grievor had claimed. The grievor was paid for the 4-12 Friday shift at the rate of time and one half.

Re Sealy (Western) Ltd. and Upholsterers' International Union, Local 34
(1985), 20 LAC(3d) 45

Paragraph 5.04 of the collective agreement reads:

> It is agreed that overtime shall be on a voluntary basis, however, it is also agreed that the least senior employee shall be required to work if no one shall volunteer. The company shall not discriminate against or discharge any employee for refusing to work overtime. When an employee accepts overtime and does not report to work, he shall forfeit his right to be asked until all others have had the opportunity.

The company claimed it was free to schedule overtime for those with the least seniority and was not restricted to compelling one employee, the most junior employee, to work overtime. The union insists overtime is voluntary except for the least senior employee. A general legal principle which applies is that in the absence of express language to the contrary in a collective agreement overtime work is compulsory (Brown and Beatty, 1984, pp.253-54, para. 5:3210). The key to the case rests on the word "employee" and the functional interpretation as to a singular or plural application.

In its decision the board reviewed the collective agreement for a particular pattern with respect to singular or plural forms and the result was no particular pattern: frequently singular forms were used where plural would have been clearly more appropriate and on occasion the reverse occurred. The board then tried to determine the intent of the parties in the collective agreement. The board observed that the importance of seniority and the company's right to manage led to the conclusion that para. 5.04 was agreed to on the understanding that senior employees had the right to decline overtime assignments and that the company had the right to schedule production. The union's interpretation that the company was able to compel only one employee to work overtime was extremely impractical. The board decided that the company is free to require more than one member of the bargaining unit to work overtime. In essence the interpretation means that in overtime situation the company asks employees, starting with the most senior, to work overtime. When the company reaches the bottom of the list the company then compels the least senior employees to work the required overtime.

Re Denison Mines Ltd. and United Steelworkers
(1982), 5 LAC(3d) 19

August 29, 30 were the complainants' days off. On August 29 Messrs. Dinel and Gingras worked and on August 30 Messrs. Dinel and Hachey worked. Dinel is a qualified hoistman, the other two had been trainees for two weeks. The two trainees were to replace Mr. Dinel's regular partner, a qualified hoistman. Mr. Gingras worked August 29 for 8 hours to complete 40 hours that week – no overtime was paid. Each trainee had previously filled in for the complainant on days off. The complainant was a qualified hoistman. Neither trainee worked the cage hoists or compressors according to the evidence, and were expressly told not to operate them. Such work was to be performed only by qualified hoistmen.

The union argued that trainees do not normally perform hoistmen's work unsupervised – that which did occur – and article 20.04 states that "opportunities for overtime work will be distributed as equitably as practicable among employees normally performing the work". The union further argued that the trainees were unqualified under the Operating Engineers Act and were not competent under the meaning of the Occupational Health and Safety Act, 1978. Only the grievor and his partner were therefore available to perform the work on an overtime basis.

The company submitted that no evidence showed the trainees having operated cage hoists or compressors unsupervised: each had been told not to operate them. Each man was judged by the company to be competent in hoist operations, thereby submitting that neither of the aforementioned acts had been contravened. Further, the company suggested the arbitrator had no jurisdiction to enforce or apply such legislation in this case. Finally, it was submitted that the work performed by Mr. Gingras was not overtime work.

The arbitrator's decision on overtime on August 29 was that Mr. Gingras was not working overtime, that the overtime provision was therefore not operative, and that Mr. Gingras did not violate the collective agreement. On the August 30 overtime issue the arbitrator notes that the union established a prima facie case that Hachey worked alone on the first floor which leaves the company responsible to explain the circumstances. On the basis of the evidence given by the complainant and Mr. Keilt, the first line supervisor, the arbitrator determined that Mr. Hachey was not an employee normally performing the work as defined in the collective agreement and, to the extent that Mr. Hachey worked unsupervised on the first floor, the company violated article 20.04 of the collective agreement. In dealing with the union's contention of the applicability of the Occupational Health and Safety Act and the Operating Engineers Act, the arbitrator noted that an arbitrator is entitled to construe and apply a statute "involved in the issues that have been brought before him". The arbitrator found that no provision of the collective agreement was in conflict with the statutes relied upon by the trade union and the arbitrator was not prepared to accept the management rights provision as a toe-hold for mounting a construction and interpretation of the statutes relied upon. The arbitrator determined therefore that he had no jurisdiction to consider the application of either act.

Re Canadian Johns-Manville Co. Ltd. and International Chemical Workers Union, Local 346
(1973), 5 LAC(2d) 23

A week-end work schedule was posted by the company in compliance with para. 32 of the collective agreement on Thursday, February 22, by 3 p.m. and no overtime was scheduled for the grievor's department. The following day the company decided that overtime work would be necessary on Saturday on the 12-8 shift and the work was subsequently offered to the employees who regularly worked the 12-8 shift. The grievor contended that the overtime should have been offered to him.

According to a previous arbitration decision between the two parties the board held that no general principle governing the distribution of overtime had been expressly set out by the parties, but that rather the collective agreement contained only a number of specific rules relating to particular situations. The board of the present arbitration held that the principle of distribution of overtime is necessarily implied in the provisions of para. 33. The board stated that "it is not accurate to say that the paragraph contains 'only a number of specific rules relating to particular situations...'[i]t contains as well a number of general and basic provisions whose purpose seems to us clearly to be the establishment of a general system of fair distribution of overtime opportunity. The specific rules are not expressed in such terms as to exclude the existence of any general rules, but rather deal with special cases." Under para. 33, sections (e) and (h) necessarily imply that an obligation to offer overtime did exist in the first place. The special cases are merely exceptions to the unspecified general rule.

The board was of the opinion that the Saturday work had not been scheduled in accordance with the provisions in the collective agreement. However, for someone like the grievor who worked a 4 p.m. shift on Friday the calendar day was deemed to start at 4 p.m. and therefore end by 4 p.m. Saturday. This means that overtime after 4 p.m. on Saturday would be voluntary in accordance with para. 31 of the agreement. As a result the overtime in question should have been characterized as "week day" overtime. Therefore, the overtime should have been offered to workers on the Friday 4-12 shift before having been offered to the workers on the Friday 12-8 shift in accordance with para. 33(k)A,B.

> Para. 33(k) The following examples demonstrate how overtime opportunity will be applied when an employee calls in one or more hours before the start of his shift to advise he will not be in or will be late.

> Dissent: Para. 33(f) reads "[i]n the case of scheduled production shifts the normal production crew (and Shift maintenance men) will cover their produc-

tion shift *regardless* of the overtime list". Admittedly, the shift scheduled was later than normal, but was still scheduled. Para. 31 has no relevance in the dispute. Nor does the situation in dispute meet the criteria described in the preamble, 33(k) so that neither 33(k)A nor 33(k)B apply.

Re National Starch and Chemical Co. (Canada) Ltd. and Canadian Union of Distillery Workers (1976), 11 LAC(2d) 288

On September 5, 1975 the grievor was working the 4 to 12 shift and was asked at 11.45 to work overtime to unload a corn truck. The grievor refused and the truck was unloaded by two supervisors. Previous company practice was to post overtime in advance, which it failed to do, and evidence showed the company was aware of possibilities of refusals to work overtime. On Monday the grievor was advised of his suspension.

The union submitted that the grievor was not required to follow the order as it was illegal under the Employment Standards Act, 1974 (Ont.), c.112. which stated that the hours of work of an employee shall not exceed eight in the day and forty-eight in the week (s.17). Further, s.19 provides that in case of accident or in case of work urgently required to be done to machinery or plant the limit may be exceeded only so far as to avoid serious interference with the ordinary working of the establishment, and s.20 states (a) the Director may issue a permit authorizing work in excess of those prescribed by section 17, and (b) the issuance of a permit under this section does not require an employee to work any hours in excess of those prescribed in section 17 or approved under section 18 without the consent or agreement of the employee or his agent to hours in excess of the eight in the day or forty-eight in the week.

Article 9.03 of the collective agreement provided: "It is agreed that the Company may require employees to work reasonable overtime." The arbitrator expressed doubt that (a) the provision was sufficiently specific and that (b) the evaluation was only required if the company first obtained a permit. Since the company had no such permit the question of consent became irrelevant. In addition, section 19 was not satisfied in that only additional freight charges would be incurred if the work was not done. Consequently the decision rests on the meaning of the word "day" vis-à-vis section 17. The company contended that the grievor was not asked to work more than eight hours per day as the work required commenced early Saturday morning. The arbitrator found no definition of day in the Employment Standards Act, 1974, nor cases dealing with interpretation. The opinion of the arbitrator was that section 17 meant that no employee is required to work more than eight hours at any one time unless those excepting sections that follow subsequent to section 17. Consequently, it was deemed proper that the employee refuse the work. The arbitrator noted that to not refuse the work but to grieve later would put both the employee and the employer subject to the penalty prescribed by the Employment Standards Act for violations of the Act. The grievance was allowed and the penalty to the employee removed from the grievor's record.

Re Northern Telecom Canada Ltd. and United Automobile Workers, Local 1915
(1986), 25 LAC(3d) 444

The grievor alleged that the company violated art. 8, app. "E" of the collective agreement by not offering to the grievor available overtime work on her job of four hours on each of November 17th and 18th. The grievor had worked the full extent of the standing permit to work 100 overtime hours for each employee in excess of the standard limit. No further permit could be issued until the permit hours had been fully exhausted.

The union contended that the grievor was available and wanted to work and that pursuant to article 8.7 it was the obligation of the company to offer that work to employees normally engaged in the work. Further, the union contended that it was the responsibility of the employer to continue to apply for additional permits after the initial refusal.

The company argued that strict adherence to the provisions of the collective agreement would have resulted in a violation of the Employment Standards Act. The company contended that there was no obligation on the part of the employer to make the application for a further permit.

The arbitrator admitted to no knowledge of an authority that requires an employer to create for employees the maximum possibilities of overtime assignments. The collective agreement places no obligation on the employer to make specific applications for permits to work hours in excess of the Employment Standards Act restrictions. Furthermore, overtime opportunity is not a benefit to which any positive entitlement is under the Act. The Act's provisions are meant to be protective against exploitation rather than guarantees of minimum entitlement. Accordingly the grievance was dismissed.

Overtime and Related Provisions: Sample Clauses

The language of the collective agreement, the words and wording of provisions and their inter-related specificity determines the nature of the labour relations climate between two parties. Where language is inadequate, imprecise, ambiguous, or absent on a particular issue, there exists the opportunity for misunderstandings, grievances and arbitrations. In order to give the reader an understanding of some of the possible phraseology of overtime and related provisions, this section presents a number of examples of provisions from recent or pertinent collective agreements. It is easy to notice that the extensiveness of language varies from agreement to agreement, that extensiveness need not be equated with cumbersome language, and that, on the other hand, simple language may be sufficient to cover the necessary issues. (For examples of words and phrases defined by arbitration boards see Palmer, 1978, pp. 127-35.)

Algoma Steel Corporation and Local Union 29, International Union of Bricklayers and Allied Craftsmen, August 1,1984-July 31, 1987

Hours of Work

5.01.10 – Normal hours of work shall be 8 hours per work day and 40 hours per work week. Normal shift starting times shall be ...
5.01.20 – The work day shall be a period of twenty-four hours beginning at 12.01 a.m. or the shift starting time closest thereto.
5.01.30 – The work week shall be a period of seven days beginning at 12.01 a.m. Sunday or the shift starting time closest thereto.

Overtime

5.03.10 – The parties agree that overtime should be kept to a minimum, but will cooperate in meeting situations where it is necessary. The Company shall provide the Union with monthly reports of overtime worked, and the parties shall meet as required to discuss and agree on methods of reducing overtime.
5.03.11 – Whenever practical, laid off employees will be recalled in accordance with Article 7.05, before extra shifts are worked.
5.03.20 – Overtime rates shall be one and one-half times the standard hourly wage rate.
5.03.30 – There shall be no doubling up or pyramiding of overtime rates. Any hour or hours of work paid for at overtime rates shall not again be counted as hours worked for the calculation of overtime pay, except that this article shall not apply for the purposes of Article 5.04.10(4) when an employee's regular posted schedule requires that he work the last shift of one week and the first shift of the following week resulting in payment of overtime rates under Article 5.04.10(1).
5.03.40 – Notwithstanding anything contained in this agreement, overtime rates shall be paid only for overtime periods worked which exceed ten minutes.
5.04.10 – Overtime rates shall be paid to an employee for hours worked:

1. in excess of 8 hours per shift,
2. in excess of 8 hours in any 16 hour period,

3. in excess of 8 continuous hours,
4. in excess of 40 hours in a work week, or
5. on his days off as designated on his most recent schedule posted in accordance with Articles 5.02.10 and 5.02.20.

No provision of this agreement shall be applied in such a way as to require the Company to schedule in a manner that would result in payment of overtime rates as outlined above.
5.05.20 – No employee shall be required by the Company to take time off because of overtime work performed by that employee.

Air Canada and the International Association of Machinists and Aerospace Workers, March 25,1985-June 28,1987

10.02.01 – Subject to the following conditions, all overtime shall be credited on a time and one-half basis:

(a) An employee who is required to report for work on one of his regularly scheduled days off shall be credited on a double time basis for those hours worked in excess of six (6) hours.
(b) An employee who is required to report for work on any two (2) or more days of a group of regularly scheduled consecutive days off shall be credited at double time for all hours worked on the second and subsequent of such days.
(c) An employee who is required to report for work on a statutory holiday will be credited on a double time basis for all hours worked in excess of the regularly scheduled hours for the shift.
(d) An employee who is required to work more than ten (10) hours in a working day shall be credited on a double time basis for all hours worked in excess of ten (10).
(e) Overtime credits shall not be pyramided, and the maximum overtime credit under any circumstance shall be double time.

10.02.03 – At the end of each pay period, employees with overtime credits will qualify for payment of such credits on a straight time basis.
10.02.04 – At the end of each pay period, employees owing the Company time will have such time deducted from their pay on a straight time basis.
10.02.06 – In the case of an emergency overtime call, a minimum overtime credit of six (6) hours shall be granted provided, however, in the event of an employee working over four (4) hours, a minimum overtime credit of twelve (12) hours shall be granted.

10.02.07 – No overtime shall be worked except by the direction of the proper supervisory personnel of the Company, except when the work is necessary and prior authority cannot be obtained. All overtime will be governed on or by a system of rotation as outlined in the following.

10.02.07.01 – Rotational overtime lists will be established at all locations for each appropriate group or formation. The purpose of these lists is to predetermine the individuals involved in overtime selection and to assure a fair distribution of overtime.

10.02.07.02 –The lists and the method of rotation will be established locally.

10.02.07.03 – Employees required to work overtime will be advised as far in advance as possible.

10.02.07.04 – Where the overtime requirement is in conjunction with a shift, all qualified employees on the appropriate overtime list who are at work will be canvassed first, unless otherwise agreed to locally. In the event the requirement is not filled by this process and the work involved is of at least two (2) hours duration, the Supervisor will endeavour to secure volunteers from the appropriate overtime lists who are not on the shift. In the event the requirement is not filled by this process within sufficient time prior to the termination of the shift, the Supervisor may assign the low man on the appropriate overtime list who is on shift. The Supervisor's determination of the time at which it is no longer reasonable to continue canvassing for volunteers will depend upon such factors as:

(a) Minimum qualifications required for the job involved,
(b) The number of employees required to work the overtime,
(c) Time required to contact and give reasonable notice to the employees being assigned,
(d) The time needed for employees to get to work.

10.02.07.05 – Where the overtime requirement is not in conjunction with a shift, the Supervisor will first endeavour to canvass all qualified employees on the appropriate overtime list. In the event the requirement is not filled by this process, unless otherwise agreed to locally, the employees on the appropriate overtime list who are at work on the shift preceding the commencement of the overtime will be required to work.

10.02.07.06 – If assignment of an employee becomes necessary, the assignment order will be in the same sequence as in the case of normal canvassing. Should an employee be assigned to work against his wishes, he will work the overtime but may subsequently protest through the grievance procedure.

10.02.07.07 – If an employee is inadvertently by-passed, he will be given an opportunity to work overtime in addition to his next regular turn.

10.02.07.08 – In order to comply with the requirements of the current Canada

Labour Code Part III, local rules governing the method and rotation of overtime for employees covered by this Agreement must be in accordance with the following:

(a) The total number of overtime hours worked will not exceed an average of one hundred and four (104) hours in each quarter of the calendar year (i.e., 8 hours per week × 13 weeks = 104 hours) commencing January 1st, April 1st, July 1st, and October 1st of each year.
(b) Overtime hours worked for this purpose does not include:
  i) the hours an employee is scheduled to work on a Statutory Holiday.
  ii) the hours an employee takes training beyond his normal schedule.
(c) After working a total of one hundred and four (104) hours of overtime in any one quarter, the employee is ineligible to work overtime either "voluntarily or assigned" except as otherwise provided by the Code.

10.02.08 – No employee shall be required to work overtime against his wishes unless: (a) No other qualified employee whose name is on the appropriate rotational list will work overtime on a voluntary basis, and, (b) In the opinion of the Supervisor, based on circumstances existing at the time of the decision, the work is urgently required and there is no other reasonable alternative. The term qualified employee means an employee whose qualifications, in the opinion of the Supervisor, meet the minimum required for the job involved.

10.02.09 – In the event an employee is required to work overtime against his wishes, the maximum number of hours he may be required to work shall be four (4) hours in conjunction with a regular shift and eight (8) hours on a regular day off or on a Statutory Holiday. These limitations do not apply to work assignments away from base. It may be necessary in exceptional circumstances to exceed the four (4) hour limit in cases involving job continuity or limited staff.

10.02.10 – If an employee disagrees with the decision of the Supervisor with respect to required overtime, he will work the overtime but may subsequently protest through the grievance procedure.

Canadair Limited and The International Association of Machinists and Aerospace Workers, Local 2235, expires September 27,1985

6.1 – Time worked in excess of the twelve (12) or eight and one-quarter (8¼) hours of any shift, per the applicable schedule, shall be considered as overtime whether such time is worked before or after an employee's regular shift.

6.2 – Overtime shall be computed daily on the basis of the nearest fifteen (15) minute unit of work and shall be paid as follows:

6.2.1 – Employees assigned to the shift rotation schedule will be paid at the rate of time and one half until fifteen (15) hours have been worked on any one shift after which double time rates will apply.

6.2.2 – Employees assigned to fixed shift schedules will be paid at the rate of time and one half until twelve (12) hours have been worked on any one shift, after which double time rates will apply.

6.3 – Double time rates will be paid for work performed on an employee's second (2nd) day off on the shift rotation schedule and time and one half rates will apply to work performed on any other day off within any payroll week, that is any period extending from Saturday to the subsequent Friday, inclusively.

6.3.1 – Employees assigned to fixed schedules, and whose work week is one of five (5) consecutive days, will be paid at the rate of time and one-half for all work performed an a Saturday and at double time rate for all work performed on Sunday.

6.4 – Overtime shall be on a voluntary basis provided work requirements are met. Overtime shall be offered on an equal basis to employees. The Company shall maintain records of overtime offered to employees and shall make such records available to the Local lodge upon request.

6.5 – Inasmuch as is possible and depending upon circumstances, the Company agrees to notify employees required to perform overtime work at least two (2) hours before the end of their shift. It is agreed by both parties that the intent of this clause is to give employees reasonable advance notice, but it is understood that changes or last minute requirements may arise and that the present provision in no way limits the application of clause 6.4.

6.6 – All employees working on a holiday mentioned in clause 18.1, shall be paid double time for the hours worked in addition to the compensation named in clause 18.2.

6.7 – When an employee is called in to work while off duty, and is sent home prior to the commencement of his next shift, he shall be paid for not less than four (4) hours at the applicable overtime rates.

6.8 – Whenever an employee is called back to work overtime, in accordance with provisions of clause 6.7, to perform a specific duty, or duties, he shall be allowed to leave work upon the completion of such duty, or duties, unless special circumstances or an emergency develop necessitating his services for a further period of time to handle such situation(s).

The Corporation of the City of Burlington and The Canadian Union of Public Employees, Local 44, Department of Public Works – Maintenance and Department of Recreation Services – Plant Operations and Parks July 1, 1985-June 30, 1987

9.02 – Should an employee be required to work on his scheduled days off, he shall receive time and one-half for all hours worked on the first day of his scheduled days off and should he be required to work on his second or other consecutive days off, he shall receive double time for all hours worked. Except for work performed during an employee's regularly scheduled hours, time and one-half will be paid for all work performed over eight (8) hours a day.

9.06 – (a) The Corporation agrees to distribute overtime as equally as possible among seniority and probationary employees within regular crews.

(b) An employee refusing or unavailable for overtime shall be charged as though he had worked. Definition: "Unavailable" shall not include vacation, verified sick leave, Workers' Compensation absences and leaves of absence.

(c) A list showing the overtime worked by each employee will be posted on the work station bulletin board and will be brought up-to-date for each bi-weekly pay period. The Union Secretary shall also receive a copy of the lists.

(d) Student and part-time employees will not be granted pre-arranged overtime in preference to regular employees. Pre-arranged overtime shall mean overtime which can be scheduled at least 24 hours in advance.

(e) Probationary employees shall be credited with the amount of overtime equal to the lowest man on the overtime list within that department, exclusive of zero (0) hours and further will not incur additional cash payments.

The Globe And Mail and Southern Ontario Newspaper Guild, Local 87, Maintenance – Delivery, July 1, 1985-June 30, 1987

(403) The Employer shall pay for all authorized overtime at the rate of one and one-half times the regular straight time rate. Overtime shall be defined as work beyond the unit of hours in a shift, the unit of hours in the work week or any work performed at hours not scheduled, as provided in Section 405. Any employee scheduled to work both a Saturday and a Sunday shift shall be paid double time for one of those shifts. If one of the two weekend shifts worked is a sixth shift, it shall be designated as the double time shift. If the other weekend shift worked is a seventh shift, it shall be paid at the rate of time and one-half the straight time rate.

(403) (a) Overnight shifts for full-time employees shall be equitably allocated, for individual periods of not more than three weeks at any one time, amongst those employees assigned to the type of work being performed during these overnight shifts. This clause shall not apply to employees specifically hired, or assigned by mutual agreement, to work an overnight shift. For the purpose of this clause, overnight shifts shall be defined as those where the majority of scheduled hours are worked between 12 midnight and 7 a.m.

(404) An employee required to work after his regular shift shall be guaranteed

at least one half-hour's pay at the overtime rate. An employee called back to work after having left the office shall be guaranteed at least four hours' pay at the overtime rate, calculation of such time to begin as of the time he received the call provided he reports for work within a reasonable amount of time. An employee required to work on his day off shall be paid at the rate of time-and-one-half, with a minimum of a full day's pay at the time-and-one-half rate, in addition to his regular weekly salary, except that this shall not apply when the shift so worked is worked to cover the voluntary absence of another employee. Overtime shall be paid for, except that by mutual agreement with the Department Head, the employee may choose equivalent time off. The employer reserves the right to limit the amount of time off to be accumulated by an employee. Time off shall be taken at a mutually agreed time and a request to take time owing shall not be unreasonably denied. Granting of time owing shall be confirmed in writing when requested.

Master Agreement Between General Motors of Canada Limited and the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America, Locals 27, 199, 222, 303, 636, 728, 1163, 1973. October 28, 1984-September 14, 1987

(77)

(a) "Straight time rate" as used in this Agreement means the employee's regular hourly rate for his job classification as set forth in the applicable Local Wage Agreement plus cost of living allowance.

(b) "Time and one-half" as used in this Agreement means one and one-half (1½) times the applicable straight time rate.

(c) "Double time" as used in this Agreement means two (2) times the applicable straight time rate.

(d) "Overtime" as used in this Agreement means any hours compensated at time and one-half or double time.

(78) In calculating the pay to which an employee is entitled under this Section, an employee's "day" shall be the twenty-four consecutive hours from:

(1) The time an employee is scheduled to start work on the particular calendar day, or

(2) The time an employee commenced work on the particular calendar day if earlier than his scheduled starting time for that day, as the case may be.

(79) All work performed by the employee in his "day" will be considered as having been performed on the calendar day on which such "day" commences.

Should the starting time of any such shift be midnight, it shall be deemed to have commenced immediately prior to midnight.

(80) An employee's work week shall start with the commencement of his day on Monday, except as may be agreed otherwise locally between Management and the Shop Committee.

(81) An employee will be compensated for time worked at his straight time rate except as otherwise provided herein.

(82) An employee who has worked eight (8) hours at his applicable straight time rate in his day, shall be paid at the rate of time and one-half for all further time worked by him on that day.

(83) Paragraph (82) shall not apply to any employee whose work in excess of the applicable straight time hours on his day is the result of a regularly scheduled shift change.

(84) An employee, other than a power house employee, shall be paid at the rate of time and one-half for all time worked by him on Saturday to the extent that such time is not part of his Friday shift, and for all time worked by him on August Civic Holiday to the extent that such time is not part of his shift on the preceding day.

(85) An employee, other than a power house employee, shall be paid at the rate of double time for all time worked by him on Sunday, to the extent that such time is not part of his Saturday shift.

(87) An employee shall be paid at the rate of double time for all time worked by him on the holidays specified in paragraph (90) and for time worked on a specified holiday in excess of eight (8) hours worked on a shift which starts the preceding day and runs over into one of the specified holidays.

(88) Night shift premium, holiday pay and overtime payments, or any of them shall not be pyramided or duplicated for the same hours under any of the terms of this Agreement. Hours worked and paid for at overtime under any provision of this Agreement shall not be counted more than once for the purpose of determining whether an employee is entitled to overtime under the same or any other provision of this Agreement.

(89) Any change in the established shift hours shall be first discussed with the Shop Committee as far in advance as possible of any such change.

Some Guidelines to Overtime Provisions

The following guidelines give some phrases to consider when writing overtime provisions. The phrases are samples of portions of overtime provisions resulting from surveys of United States collective agreements, as reported by The Bureau of National Affairs (121-28).

Distribution of overtime work

a) As evenly as possible.
b) Equally according to seniority.
c) As fairly as possible among employees within a classification.
d) Equally within a work group.
e) Equally within a classification and a department.
f) Equally among employees; first offered to those qualified in job class, in department, on shift with least overtime hours.
g) Based on departmental seniority.
h) Based on plantwide seniority after qualified department employees have been scheduled.
i) Based on qualifications and seniority first within the job classification on the shift, then on other shifts, in the department, and among other employees.
j) Offered to probationary employees only after qualified employees in the classification have been offered the assignment.
k) According to past practices.
l) Rules and procedures determined by local agreement.
m) Equitably per quarter among employees in foreman's group working at the time and regularly perform work.

Variations in standard overtime distribution procedures

a) Employees on temporary transfer given opportunity to work overtime in their home department.
b) In the absence of a tour worker, last employee on previous shift given opportunity.
c) Qualified employee with lowest credited overtime hours required to work if overtime requirements not filled.
d) In cases of emergency.
e) Inequitable distribution will be remedied.

Notification requirements for overtime work

a) As far in advance as possible.
b) As soon as possible after authorization.
c) As much notice as possible for daily assignment; as promptly as possible after determination is made for weekend.
d) At least one hour for daily assignment; mid-point of preceding shift for Saturday or Sunday.
e) Before end of shift preceding overtime shift.
f) Twenty-four hours for daily assignment; prior to end of fourth shift for weekend.

Limitations on overtime assignments

a) Amount of premium shall not be a factor.
b) Management required to notify union when assigning overtime for a two-week period instead of recalling laid-off employees.
c) No consistent overtime permitted in classifications in departments where employees are on layoff.

Limitations on amount of overtime work

a) No more than 16 consecutive hours, 16 hours in a work week, two consecutive 16 hours work periods, or 16 hours in 24-hours period.
b) No employee is expected to work more than 24 hours.

Overtime work exemptions

a) None shall be scheduled on the day of a union general election or membership meeting.
b) Will not be scheduled the day before a holiday, the night of the monthly union meeting, or before the start of an employee's vacation.
c) No employee shall be required to work more than three consecutive Saturdays or for valid reasons.
d) Work on Easter Sunday and Sunday before Labour Day only by consent of union.
e) Employee working two or more consecutive Saturdays not required to work following Saturday without his consent.

Refusal of overtime work

a) Permissible as long as other employees willing to work are readily available.
b) Employee's turn in rotation passed over.
c) Employees not required to work overtime.
d) Permissible on the day before or the day after a holiday.
e) Employee's request for exemption will be considered by the union and the company.
f) Permissible if work is injurious to employee's health.
g) Employee absent for any reason will be charged for overtime.

Failure to report after accepting overtime work

a) Employee loses turn for next overtime job and is charged as if he had worked the assignment.

b) Employee charged with twice the number of hours he could have worked.
c) If two or more hours notice not given, employee charged with two and one-half time number of hours he could have worked.
d) Employee charged with triple the number of hours he was scheduled to work.
e) Employee penalized for failure to report for weekend overtime.
f) Employee subject to a one-day disciplinary layoff.

VI

The International Developments on the Issue of Overtime

Legislation and Overtime Regulation in European Countries

In 1919 The Hours of Work (Industry) Convention No.1 of the International Labour Organization (ILO) provided for working hours to not exceed 8 per day and 48 per week, contained also in the 1930 ILO Convention No. 30 in 1930, Hours of Work (Commerce and Offices). The ILO 1935 Forty-Hour Convention (No.47) "proposed a work week which was subsequently affirmed as a 'social standard' in the Reduction of Hours of Work Recommendation, 1961 (No.116)." These conventions have greatly influenced the standard work week in Europe and abroad. More recently there has been considerable pressure to reduce the work week and the associated overtime hours as a result of the 1975 and 1981-82 economic recessions.

Overall, the legislated hours of work in European countries do not vary significantly from that of Canada. In Canada, the work week ranges from 40 to 48 hours per week, with 10 of 12 jurisdictions providing for 44 hours or less (see Table 5 in Section IV). In comparison, in Europe the work week ranges from 39 to 48 hours per week, with 13 of 23 countries providing for 44 hours or less. (Six countries provide for 48 hours, four provide for 45-47 hours, three provide for 42 hours, eight provide for 40 hours and two provide for 39 hours). Ten (43 percent) provide for 40 hours or less while in Canada five jurisdictions (42 percent) provide for 40 hours or less. Thus, the Canadian legislative standards are by no means lagging behind the European countries.

As far as overtime legislation is concerned, there are three main types of restriction on overtime which are used singly or in combination in Europe: restrictions on annual, weekly, and daily bases. The following tables summarize restrictions for selected European countries, noting consent of the union, authorization of the labour inspectorate, and the possibility of exceeding statutory maximums.

In the European arena there is a general homogeneity of types of statutory limits used to govern overtime hours. Most countries set a daily maximum of two hours of overtime, implicitly or explicitly, and only four countries set no annual limit (see Table 8). There is substantial variation in annual limits from a low of 60 hours in the FRG to a high of 240 hours in Ireland. The most com-

TABLE 8
STATUTORY LIMITS ON HOURS OF OVERTIME

	Statutory Limit			Requirement		
Country	Daily	Weekly	Annual	Union Consent	Notification to Labour Inspectorate	Authorization of Labour Inspectorate
Austria	2	10				
Belgium	2	10	65 in quarter year	Yes		Yes
Finland		20 in 2 weeks	200	Yes		
France			130		Yes	
GDR	4 in 2 days		120	Yes		
FRG	2		60			Yes
Ireland	2	12 (max 36 in 4 weeks)	240			
Italy	2	12			Yes	
Luxembourg	2					Yes
Netherlands						
women		6				Yes
men		12				Yes
Norway		10 (max 25 in 4 weeks)	200			
Sweden		48 in 4 weeks (max 50 a month)	200			
USSR	4 in 2 days		120	Yes		

Source: International Labour Office, *Conditions of Work Digest*.

mon annual limits are 120-130 hours which, if worked, would amount to approximately 6.4 percent of regular hours. About one-half of the countries (see Table 9) provide for exceeding the statutory limits, all requiring authorization by the relevant labour inspectorate: only Finland required union consent; two countries required union consultation. Furthermore, only Norway and Sweden set limits for exceeding the statutory guidelines. Regarding initial overtime work (within the statutory limits), four countries required union consent, two required notification to the labour inspectorate, and five required authorization by the labour inspectorate.

The following table indicates substantial differences between countries in rates of reduction of the work week, indicating that both collective bargaining and legislative lobbying in Europe have been fairly successful arenas for the reduction of work hours. This is evident from the large differences between the legislated maximums and the existing averages. However, the entire changes are not solely attributable to these arenas. Changes in the nature of the economy have resulted in shifts of employment structure. For example, in 1984 in Denmark 23.4 percent of the labour force worked part-time (17.0 percent in 1975) while in France only 8.9 percent of workers were part-time (*European Industrial Relations Review* 137 (June 1985): 21). Consequently, the inclusion of part-time workers in the hourly averages would tend to overestimate the relative effects of Danish policies vis-à-vis French policies.

January 1, 1984 a Royal Order in Belgium provided that at the end of every quarter of the year any overtime in excess of the statutory limits must be compensated with time off in that same quarter. If the increase is exceptional or due to accident or urgent repairs, the overtime hours may be taken in the following quarter or be remunerated. Any overtime over 65 hours in a quarter must be compensated in time off immediately. In 1985 there were new amendments to the Order. There were exemptions set to normal statutory limits on working hours up to a maximum of 9 hours per day and 45 per week so long as the statutory limit or the collective agreement provision is respected over the normal working year. Further, a temporary extension or reduction of the statutory working time was permitted at short notice in order to cope with both sudden increases or decreases in output. In essence, the Order implies that the Belgium workforce would be subject to fluctuating hours of work over the short term, primarily cyclical in nature, while adhering to the long-term requirements of the collective agreement. Hours of work would in total be reduced on an annual basis while permitting employers to manipulate hours of work as product demand patterns dictated. Similar situations have occurred in other European countries but on a much smaller scale. In 1984 the German printing industry reduced weekly hours by collective agreement to 38.5 from 40 but moved to calculating weekly hours on a choice of quarterly, semi-annually or annually. In Austria, the Printing and Paper Trade Union and the industry agreed to

TABLE 9
REQUIREMENTS TO EXCEED STATUTORY LIMITS ON HOURS OF OVERTIME

Country	Statutory Provision to Exceed Limit	Requirement		
		Union Consent	Union Consultation	Authorization of Labour Inspection
Austria	Yes			Yes
Finland	Yes	Yes		Yes
France	Yes		Yes	Yes
GDR				
FRG	Yes			Yes
Norway	Yes (to a 20 hours/week maximum)		Yes	Yes
Sweden	Yes (to a 350 hours/year maximum)			Yes

Source: International Labour Office, *Conditions of Work Digest*.

Note: Belgium, GDR, Ireland, Italy, Luxembourg, and the Netherlands have no provisions for exceeding the statutory limits. The USSR has a general prohibition of overtime.

TABLE 10
WEEKLY HOURS OF WORK IN MANUFACTURING

Country	Weekly Hours 1980	Percentage Change in Weekly Hours 1965-1983	Percentage Change in Weekly Hours 1980-1983
Austria	33.7	−15.0	− 1.2
Belgium	23.1	−51.0	−32.0
Canada	38.5	− 5.0	0.5
Denmark		−34.0	1.3
France	40.6	−16.0	− 7.3
Germany		− 8.0	0.7
Ireland	41.3	− 6.3	0.0
Norway	31.0	−25.0	− 9.5
Sweden			−28.6

Source: International Labour Office, *Conditions of Work Digest*.

Note: While the definitions of workers and the industrial classifications may vary from country to country, the table illustrates the decline of the work week and should be viewed in the context of legislated maximums on hours of work.

TABLE 11
LEGISLATED MINIMUM OVERTIME RATES AND NORMAL HOURS OF WORK

Country	Overtime Rate	Normal Hours	
		1967	1984
Belgium	1.25	45	40 (38)
Denmark	1.50*	44	40
Finland	1.50	40	40 (35-40)
France	1.25	40	39
GDR	1.25	44	44
FRG	1.25	48	48 (40)
Ireland	1.25	48	48 (40)
Italy	1.10	48	48 (40)
Netherlands	1.25*	48	48 (40)
Norway	1.40	45	40
Sweden	1.50*	45	40
USSR	1.50	41	41

Source: International Labour Office, *Conditions of Work Digest*.
Note: Figures in parentheses are collective agreement averages.
* Set under collective agreement and practice.

reduce the work week from 40 to 38 hours, with an 8 hour standard day, but permitted, if necessary, a 9 hour day or 40 hour week where extra work would not be compensable at higher rates but must be taken as time off.

West Germany

The West German Government released a report in 1986 dealing with the problem of overtime. The report defines overtime as "hours worked in excess of usual hours which are paid, not compensated by time off on another occasion, regardless of whether a supplement is paid for such hours" based on the Federal Statistical Office definition. From this definition the report stresses that paid overtime is the target for reduction – primarily workers in the blue-collar professions. The available statistics on overtime are fairly good for the blue-collar industrial manual workers but are not satisfactory for white-collar or blue-collar workers in commerce and service industries. In spite of the deficiencies, the overtime surveys illustrated that the vast majority of overtime was worked by men, and that there was substantial variation in 1984 in average annual overtime hours per worker across industries, from a low of 26.9 hours in the public sector to 115.7 hours in construction (primarily explained by seasonality of employment), with an average of 65.5 hours for all workers ("Report on overtime stresses ...").

The current legislation on German hours of work dates from 1938 and still provides for a maximum of 48 hours worked per week. Hours of work in excess must be compensated with at least an additional 25 percent pay. Collective agreement gains indicate that there has been a steady reduction in the work week to 39.6 hours at the end of 1985, and no agreement provides for work weeks in excess of 40 hours per week. The agreements define overtime as work in excess of contractual hours and often limit the number of overtime hours to 10 hours per week. About one-half of employees covered by collective agreement are covered by "time off in lieu of overtime" provisions. Furthermore, where a firm with more than four employees is not covered by a collective agreement, The Works Constitution Act gives works councils, which must then be set up in such firms, rights of co-determination over the use of overtime.

The Institute for Applied Sociology – Infas – surveyed 3,500 employees on overtime attitudes in 1986 and found that 20 percent had performed paid overtime in 1985 and that one-third of those received time off in lieu of part or all of those hours. A large proportion welcomed the chance to earn more by performing overtime – 19 percent of workers said they could not manage without the extra money from overtime work. Of those performing overtime, 60 percent would be willing to reduce the number of hours worked.

The Ifo Institute ("Report on overtime stresses...") surveyed 1,450 companies in 1986 and found that an average of 3.4 percent of volume of work was performed in an overtime capacity – 79 percent was performed by blue-collar workers and 21 percent was performed by white-collar workers. Fluctuation in demand was the major cause of overtime, with 42 percent of overtime worked for this reason; other reasons included bottlenecks in capacity and staffing. Seventy-nine percent of companies regarded overtime as a necessary cushion to enable flexibility. Two-thirds claimed that measures had been taken in the past 6 years to reduce the amount of overtime worked by increasing productivity, recruiting more staff and taking training measures for existing employees. In addition part-time work, fixed-term contracts and flexible hours arrangements were seen as means of avoiding overtime.

The government derived one main conclusion from this study: that there is definitely further scope for reduction in the amount of overtime worked since a majority of employees would prefer to work fewer hours, most companies are taking measures to reduce it, and both employer and employee organizations have argued for such a reduction.

France – The Giraudet Report

In 1986, after 20 months of negotiations between French employers and union confederations, the Government commissioned Giraudet Report was released, which provided measures to meet both the union mandate for a shorter working week while satisfying employer's demands for more flexible rules on overtime working. In essence the report provided for: an annual reduction in maximum work hours from 1,856 to 1,816 hours (a reduction of one 40 hour week per year), freedom for firms to institute up to 140 hours of overtime per year without public authority approval and up to a further 93 hours with approval (currently all hours are subject to approval), repeal of employer's statutory rights to require employee's to work extra hours due to time lost through public holidays (currently employers may invoke the right when fewer than 40 hours are worked in a week).

The particulars related to overtime are as follows. Existing statutory rules on minimum overtime rates should remain – pay at 1.25 times basic for the first 8 hours and 1.5 times basic for any other hours in excess of normal weekly hours. The requirement of authorizing all overtime was abolished and a complex two-tier system of quotas put in its place. Firms would, without approval, be able to institute limited amounts of overtime up to: 116 hours per annum, none of which is compensable in time off; or 140 hours per annum, of which 47 hours could be paid back as time off). The Labour Inspectorate authorization would be required for "exceptional" overtime worked over and above these amounts to cope with "unforeseen commercial and technical factors". However, such overtime could only be carried out within the maximum weekly limits mentioned above and subject to certain restrictive rules aimed at discouraging its "habitual" use. Thus, exceptional hours could not exceed 93 hours per annum. Other proposals included firms projecting needs for working hours composed of usual, overtime and exceptional overtime hours, and monthly pay slips indicating standard hours, overtime and exceptional overtime hours worked and the payments under each heading.

European Economic Community – Limiting Overtime

The European Commission sees overtime restrictions as important for two main reasons ("Limiting overtime: EEC"): first, that the extra working hours that will become available as a result of limits on overtime "will be conducive to improving staff planning" and "measures may be taken to stabilize employment"; and second, overtime restrictions will "have the effect of approximating standard working hours to hours actually worked".

The basic principle is that limits should only be applied to the systematic use of overtime if they take due account of "the necessary flexibility in the production process of the undertaking and of the situation on the labour market." Overtime enables adjusting to seasonal variation in workload, offsetting of production losses due to technical difficulties, and alleviating staff shortages. EEC limits are intended to limit overtime performed regularly over a prolonged period of time. As such, the commission suggests that restrictions would not apply to the first hour of overtime, but only to a specified threshold. The commission prefers to deal with compensatory time off as a means of limiting rather than raising overtime premiums, taxing overtime work, or setting mandatory limitations. The alternation of periods with overtime and periods with compensatory time off would help approximate hours actually worked to standard working hours as laid down in collective agreements. Where individual workload is systematically increased, the compensatory time off proviso would give a timely indication of the need for additional staff. Thus, such a policy would not complicate existing working hours provisions. The commission suggests that such a policy would have to be made at a national level and the following elements would need to be stipulated: (1) the period to be taken into account for calculating overtime; (2) the period during which the compensation should be applied; (3) the overtime threshold beyond which compensation would be applied; (4) the effect of the compensation mechanism on existing provisions governing overtime premia; and (5) the compensation ratio, i.e. the ratio between the number of hours overtime worked beyond the threshold and the number of hours of compensatory time off. The ratio will be affected by existing provisions which tend to increase the cost of overtime (bonus/premia) or reduce overtime (maximum overtime limits fixed by law or agreement).

Denmark – Proposed Limits on Overtime Working

As of April 1, 1981 all employers had to register the overtime worked by their employees, match that time with time off in lieu and abide by a limit of 100 hours overtime per person per year (or voluntarily agree other limits with trade unions) ("Proposed limits on overtime on working: Denmark"). The Overtime Limitation Bill had its origins in the 1979 report of the special Committee on Work Distribution which argued that if statutory limits were imposed on overtime and less was worked, new jobs would be created since employers would have to take on extra workers to maintain previous production levels. The New overtime bill does not require employers to take on new workers as well as limit overtime. The bill requires overtime to be limited to 100 hours a year for any individual employee, where overtime is defined as "work over and above ... normal working time for which special payment is made." Where employees are outside the scope of collective agreements, and do not have *normal* working time established, their normal hours will be considered to be those applying in the most closely related sector. The bill requires overtime hours to be matched with time off in lieu but does not exclude the need for overtime premia – time off in lieu was deemed a necessary extra. Said time off should normally be given within two months of the overtime worked and where an employee faces dismissal or termination the employee must be first given any "time off in lieu". In addition, employers must register details of overtime worked and time off in lieu given. Registration is to be internal as must be supplied to employees or their representatives on request. Contravention of the above leads to liability in the form of a fine and, if an employee is dismissed solely because he/she has refused to work overtime beyond the deemed limit, he/she will be entitled to compensation of up to 26 weeks pay from the employer (the same ceiling set under unfair dismissal law).

The Government views the Bill primarily as a job creation scheme. The proposals of the Bill however shall not supercede collective agreement provisions on annual overtime limits, whether such provisions exceed the legislative standard or not. This was an amendment to the initial Bill because employers objected that the original Bill put too many restrictions on existing collective agreements.

Great Britain

The Abuse Of Overtime

A cursory analysis of current trends indicate that there is a higher proportion of the workforce performing overtime and a higher average hours per week than in recent history, partially explained by the recovery in output and the lack of hiring to perform the extra work (Lynch). Perpetual use of overtime in the face of reduced work weeks results in substantial increases in wage costs, especially if full compensation is unaffected by reduced work weeks. Overtime is in fact one of the few costs that effective management can control but few organizations seem aware of the true extent or cost of overtime. Necessary for overtime control are definitional categories of overtime and the extent to which overtime occurs within each category. The following definitions are used by the British Paper and Board Industry Federation.

> Contractual: Contractual overtime is built into the working week.
> Production: Production overtime arises because the hours required for the production year are greater than the sum total of crew-hours per year.
> Casual: Casual overtime arises due to all other reasons, including such matters as customer rush orders, emergencies, absences and so on.

In order to control overtime hours contractual and production overtime should be eliminated through flexible work arrangements and casual overtime should be reduced naturally as a consequence of such arrangements. Some of the reforms needed to accompany a comprehensive overtime policy are: full compensation on the wage rates (regardless of whether regular or overtime hours) for the elimination of contractual overtime, which will give the benefits of higher guaranteed pay and more leisure, as long as overtime hours are not increased; reorganization of working time to eliminate production overtime with the majority of the savings accruing to the workforce if the employment of additional people is avoided – if spares have to be employed, then their employment cost is deducted from the overtime savings kitty; the adoption of procedures to control casual overtime with targets specified and agreed; and, where appropriate, the adoption of equalized pay by credit transfer to eliminate fluctuations due to different weekly rostered hours. In other words a higher basic wage, low overtime, stable income plan combined with improved labour efficiency results, benefitting both employers and employees.

A necessary accompaniment to such policies are control mechanisms which involve (1) rules for determining whether overtime cover is necessary, (2) procedures for obtaining the cover once it has been accepted as necessary, (3) methods of compensation for overtime worked, and (4) joint monitoring of overtime. By employing minimum manning levels/short crew operation capabilities, casual absences do not require overtime work as internal assignments may be shifted. Recent experience indicates that under low overtime regimes, it becomes more difficult to find workers willing to perform casual overtime. It is therefore necessary to distinguish between planned and unplanned overtime provisions in the agreement. Overtime policies should also cover the question of the employment of temporaries in cases of persistent overtime. The advantages are threefold: temporaries are less expensive than overtime workers; temporaries can be hired at the bottom, permitting regular employees to advance to more senior positions; and hiring temporaries permits a "suitability for employment" test for new hires at a later date.

Overall, the prospects for employers include: unit cost maintained or reduced; improved productivity with less hours input for the same or greater output; removal of overtime as a means of production; less vulnerability to limited industrial action; business expansion potential without costs escalating; improved industrial relations. Similarly, employee benefits include: increased leisure time; higher guaranteed pay; better personal planning of time; stable wages; attractive new working rotas which the employees may be involved in designing; joint regulation with management of the system; and re-establishment of wage differentials based on skill and responsibility rather than overtime opportunity.

Methods to Contain Overtime – Case Studies

The following case studies were reported in the Industrial Relations Review and Report.

Case 1

In May 1983, Fort Sterling of Great Britain introduced annual working hours for its shift workers under which contracted workers perform 1,820 hours of work per year and receive an equalized weekly wage regardless of the particular shift worked. The previous contract called for 168 hours over a four week period. Such a system involves no major restructuring of the company's continuous process and its built in flexibility provides an alternative to holiday cover and eliminates the need for voluntary overtime. The company undertook an education and training program during the summer and autumn of 1982 which included information and discussion with trade union representatives. The company moved from its old four crew rotation to a five crew rotation which, by providing an additional employee for each job, reduced the need for relief cover or voluntary overtime. In spite of the "considerable expense" associated with its introduction the company felt that the increased flexibility and reduced overtime costs and the ability to eventually reduce basic hours outweighed the increased cost. The change provided 23 new jobs. The system cut 94 hours from the basic year to a total of 1,820 hours. With a five week cycle workers work 1,736 hours with the remaining 84 hours redistributed into the shift pattern. The company no longer shuts down for 16 days in the summer and 10 days at Christmas. Instead the summer roster is set up to permit two consecutive weeks holiday and remaining holidays are fitted into the annual schedule. Whereas maintenance used to be carried out during shutdown, the company has 24 planned shutdowns (biannually for each of 12 machines for usually less than 12 hours) which enables maximum speed and availability of maintenance personnel. The company notes that overtime hours have markedly declined and are now only necessary to cover unforeseen absences.

Case 2

In 1979 BP Chemicals set a ceiling on the amount of overtime performed where employees may voluntarily accept up to 48 hours per year if required by management. The acceptance is for the performing of overtime work during the year and is made at the beginning of the year, i.e. the company is aware within the first two weeks of the year whether the employee is willing to perform up to 48 hours of overtime during the work year. The employee must notify management if he/she is not interested in performing overtime during the year. A lump sum payment is made to each employee who commits to working the overtime. Overtime notice is a minimum of 24 hours unless previously agreed upon and any overtime performed may be taken as time off in lieu or may be compensated in cash in blocks of four hours. In addition workers receive an inconvenience payment of £2.05 per hour of overtime. In 1983 the company moved to a five crew pattern to reduce hours of work and reduce overtime hours by negating the need for voluntary overtime.

Case 3

In September of 1984 Petrofina introduced a radical productivity and flexibility deal with its 300 tanker drivers and related distribution workforce. Previously a 40 hour work week was worked plus an average of 10 hours overtime per week per employee. The company held that the system encouraged workers to perform less efficiently during normal workhours. Furthermore, the excessive seasonal fluctuations in earnings caused the industry many problems.

The new agreement provides for a 37.5 hour work week from Monday to Friday and employees are obliged to work up to 11 hours per day if required. Paid overtime was abolished. The objective was achieved by stating that, if occasions do arise where more than 37.5 hours are worked in one week, then the credit hours will be deducted from the basic hours requirement for the following week. All workers have to be prepared to work weekends and holidays and will receive compensation for the inconvenience of such work, but the extra hours are deducted from the next week's basic hours quota. Short term peak loads or seasonal fluctuation work will be handled by contractors or temporary staff. The elimination of paid overtime and the introduction of minimum earnings has removed the financial obstacle which tended to prevent trades and craft personnel from applying for sales or clerical transfers. The company agreed to provide the necessary training to acquire skills for other jobs within the organization. Estimates indicate that the new pay system and the corresponding benefits contributions will increase substantially, but the company believes it will recoup 70 percent of the increase in manual workers' pay bill in the first year through increases in productivity and efficiency.

Case 4

Brink's Mat eliminated guaranteed overtime (one hour per day plus two floating hours for seven hours per week) in January 1984. In practise some crews worked up to 30 hours overtime per week while others were paid for the seven hours without performing any overtime work. Overtime costs in 1983 amounted to 50 percent of the wage bill. The company and the union agreed to eliminate guaranteed overtime but in locations where overtime was fairly consistent the company undertook to offer employees the opportunity to work up to five hours voluntary overtime per week. Employees sign a roster sheet to notify management that they are willing to perform overtime the following week and management then assigns overtime on that basis – in essence the company is provided with a bank of overtime hours. Employees may decline to work overtime if asked to work after 4 p.m. on the day concerned. As a result of the system an additional 50 workers (a 22 percent increase in the workforce) were recruited and in spite of the overtime rates of time and one-half for weekdays, double time for weekends and treble time for bank holidays, the company asserts that the new agreement and the reduced cost of overtime will have a net benefit both in terms of costs and efficiency.

Union Positions

As in Canada, overtime has long been an issue linked to hours of work – one on which European unions have concentrated energies in order to reduce hours of work and to increase the welfare of their members. While in general union policies vary from country to country, the overall aim is similar in intent and degree. In the European arena (Kopke), the Belgian General Federation of Labor (FGTB) and the (Confederation of Christian Trade Unions (CSC) of Belgium have been pushing for a 36 hour work week linked to overtime limits on hours, overtime to be compensated in time off. In Denmark the Danish Federation of Trade Unions (LO) and the Federation of Civil Servants and Salaried Employees (FTF) propose that overtime be compensated with free time in order to overcome hours of work limiting problems. In Great Britain, the Trade Union Congress (TUC) has been researching the feasibility of using legislation to regulate overtime hours. In Ireland the Irish Congress of Trade Unions (ICTU) position is for a 35 hour week and increased overtime restrictions. In the Netherlands the FNV is pushing for reduction in all forms of worktime, with special concentration on overtime reduction. In Iceland the unions have set priority to limit overtime below the current limit of 10 hours per week.

Unions (ICTU) position is for a 35 hour week and increased overtime restrictions. The Netherlands Trade Union Federation (FNV) is pushing for reduction in all forms of worktime, with special concentration on overtime reduction. In Iceland a union priority is to establish an overtime limit below the current limit of 10 hours per week.

TABLE 12
OVERTIME REGULATION IN SELECTED INDUSTRIALIZED COUNTRIES, 1986

Country	Statutory Regulations	Collective Agreements and Practice
Australia	Overtime is regulated by awards and collective agreements of the Australian Conciliation and Arbitration Commission.	Premium: 50 percent for the first 3 hours, 100 percent thereafter. Many awards require a rate of 100 percent after the first 2 hours. Maximum: No general limit. Conditions: Rest break before resuming work often required. Specific mechanism for seeking permission for overtime work in Queensland Factories and Shops Act. Special: Young persons under the age of 16 and women are subject to maximum overtime of 3 hours a day on 24 days a year, but for not more than 3 consecutive days. May be extended by permission from the Minister if the exigencies of the trade so require for up to 48 days per year.
Austria	Premium: 50%. Maximum: 2 hours daily, 10 hours weekly. This limit may not be exceeded where distribution of normal hours vary or are extended. Special: Nursing or expectant mothers and workers under 16 prohibited from overtime work. Young workers over 16 have maximum 30 minutes daily, 3 hours weekly, total hours not to exceed 10 in a day. Prior authorization required of Labour Inspectorate for in excess of above limits, accorded only where the work is in the public interest.	Steel and Metal workers: Premium: 50% for first 2 hours; 100% thereafter and after 19.00; 100% public holidays. Conditions: Employer must consult works council; workers may refuse to work overtime when contrary to their interests.
Belgium	Defined as work over 9 hours per day and 40 per week. Premium: 50%. Paid compensatory rest imposed for exceeding normal hours and remunerated at normal rates. Compensatory rest must be taken within 3 months. Maximum: 2 hours per day, 10	Conditions: Written notification of labour inspectorate of overtime hours performed, of workers concerned and of percentage of overtime hours as compared to normal hours of work performed.

Table 12 (continued)

Country	Statutory Regulations	Collective Agreements and Practice
	per week. Overtime must not exceed 65 hours per quarter. Conditions: Prior authorization of labour inspector and consent of trade union delegation (except in case of force majeure). Exceptions: Shift work, work which cannot be interrupted, work to which limits cannot be applied. The 65 hours limit may be exceeded in extreme circumstance. Prior authorization required.	
Denmark	No generally applicable provisions.	Premium: 50% during the working week, 100% on Sundays, national or religious holidays, or compensatory leave; textile industry: 50% for the first 2 hours, 100% thereafter.
France	Premium: 25% for first 8 hours per week; 50% thereafter. If firm has more than 10 workers, overtime must also include compulsory rest equivalent to 20% of overtime worked in excess of 42 hours. Where overtime exceeds the annual limit, the said rest period must equal half the hours of excess. Maximum: 130 hours per year. Conditions: Notify Labour Inspectorate, consult works committee. Prior L.I. authorization required to exceed limits.	Maximum: Lower annual limits in some branches and undertakings (e.g. 94 hours per year in the metalworking industry).
German Democratic Republic	Premium: 25%. Maximum: 4 hours on any 2 consecutive days and 120 hours per year; 2 hours on two consecutive days and 60 hours per year for workers between 16 and 18 years of age. Conditions: Prior authorization of trade union committee. Pregnant women and nursing mothers are not allowed to perform overtime and women with pre-school children or workers with family members needing their care may refuse to work overtime.	

Table 12 (continued)

Country	Statutory Regulations	Collective Agreements and Practice
Federal Republic of Germany	Premium: 25%. Maximum: 2 hours per day for 30 days, daily hours not to exceed 10 hours. Conditions: Prior authorization of works committee for more than one worker. Prior authorization of labour inspectorate for overtime above maximum. Special: Expectant or nursing mothers are not permitted to work overtime. Exceptions: civil servants may be called to work overtime without extra pay but time off must be given if work exceeds 5 hours per month. Where time off is not possible, compensation of up to 40 hours per month may be paid.	Premium: 50% stipulated in many collective agreements. Compensatory time off provided for in some collective agreements (e.g. public services, clothing industry, and breweries).
Ireland	Premium: 25%. Maximum: 2 hours per day, 12 weekly, 240 annually, 36 hours in any period of 4 consecutive weeks. Special: Maximum for young persons: 2 hours per ordinary day, 1 hour per short day, 10 hours in a week, 200 annually, and 30 hours in any period of four consecutive weeks. Exemptions: agriculture, fishing, mining, transport, commercial and domestic work. The Minister may allow, upon application from the employer, longer periods.	Premium: 50% for the first 4 hours, 100% thereafter.
Italy	Premium: 10% of basic wage plus 15% of overtime wages paid into an employment fund. Maximum: 2 hours per day and 12 per week. Conditions: Systematic overtime unlawful. Labour Inspectorate must be notified within 24 hours that overtime is being performed and explain why it is necessary. Special: overtime not allowed for children, young workers, or mothers of children less than 1 year old. Overtime is	Metal working industry: premium: 25% weekdays, 75% on Sundays and holidays. Proposals to exceed limit made by agreement may be authorized for a maximum period of 9 weeks provided average overtime does not exceed 12 hours per week.

Table 12 (continued)

Country	Statutory Regulations	Collective Agreements and Practice
	allowed in cases of Force Majeure or complementary work requirements.	
Japan	Premium: 25% Maximum: 15 hours per week, 28 per 2 weeks, 39 per 3, 48 per 4, 12 hours per week for 5th to 12th week, 50 per month, and after one month 50 hours per month up to 3 months. Conditions: agreement between labour and management. Special: Minors under 18 are not permitted to perform overtime. Maximum 2 hours per day for underground work and jobs dangerous to health. Other special provisions restrict female overtime hours.	
Luxembourg	Premium: 50% Maximum: 2 hours per day. Conditions: Prior Ministerial authorization. Permitted only to (a) avoid (1) loss of perishable goods or (2) compromise technical results; (b) to enable special jobs to be accomplished; (c) to meet exceptional workloads not foreseeable; (d) in case of public interest or national emergency. However, no authorization is required for overtime arising from prevention of or consequence of an accident or urgent machine work so far as is necessary to prevent serious breakdowns of normal procedures. Special: overtime generally forbidden for young persons. Where allowed, premium is 100%.	
Netherlands	Premium: no legal provisions. Maximum: In general 12 hours per week for males, 6 for females. In special circumstance or office, males may work up to 65 hours per week, maximum of 220 hours in four consecutive weeks. If nightwork involved, eight hours maximum in a period of 3 consecutive weeks. Conditions: Permit from Labour Inspector or Labour Minister.	Premium: 25% for first 2 hours, 50% thereafter. Several agreements provide for compensatory leave. By agreement between employers' and workers' representatives, a permit may be obtained which makes it possible to exceed the annual maximum by 200 hours. Construction: overtime not allowed for workers over 55 years of age.

Table 12 (continued)

Country	Statutory Regulations	Collective Agreements and Practice
Norway	Premium: 40% minimum. Maximum: 10 hours per week, 25 in any 4 week consecutive period, 200 in any calendar year. Conditions: Prior authorization required to exceed 200 hour or 10 hour limit up to 20 hours per week maximum, after consultation with workers representatives. Overtime is limited to special cases and the worker shall have the right to be exempted on request – this does not apply for 4 days in the case of emergency work.	By collective agreement maximum overtime may be extended to 15 hours per week, 40 in a 4 week period, or to 16 per week if the worker agrees.
Sweden	Premium: no generally applicable provisions. Maximum: No more than 48 overtime hours in a 4 week period or 50 hours in a calendar month, subject to an annual maximum of 200 during a calendar year. Conditions: Emergency overtime of up to 2 days may be performed without permission but the local association of workers must be notified, otherwise application for permission to the National Board of Occupational Safety and Health (NBOSH) must be made. Prior authorization is required from the NBOSH for overtime in excess of 200 hours per year or 48 hours in a 4 week period up to 150 (total 350) hours per year.	Premium: Textile industry: 50% during the week; 60-70% on Saturdays; 100% on Sundays and public holidays. Temporary departures from the provisions on overtime may be made by collective agreements at the enterprise level.
USSR	Premium: 50% for first 2 hours per day and 100% for any subsequent hours. Prohibited to compensate by time off in lieu of overtime pay. Maximum: 120 hours per year. Shall not exceed 4 hours in any 2 consecutive days. Conditions: Overtime prohibited as a general rule. In exceptions consent of the local trade union committee is required. Overtime is prohibited: for pregnant	

Table 12 (continued)

Country	Statutory Regulations	Collective Agreements and Practice
	women and nursing mothers; mothers of children under one year; workers under 18; workers attending training courses; on workdays in educational, vocational and technical training establishments; and for those who combine work and education on the days when they attend classes. Mothers of children between 1 and 8 years perform overtime only with their consent. Disabled persons perform overtime only with their consent and that of their doctor's.	

Source: International Labour Office, *Conditions of Work Digest*.

VII

Selected Annotations of Articles, Books and Reports of Interest

Ahlburg, D.A. and P.L. Schumann. "Increased penalty rates for overtime and job creation in Australia." *The Journal of Industrial Relations* 28 (March 1986):102-108.

This paper investigates the proposition that increasing the overtime pay premium may be one way to stimulate employment growth. To this end they develop the economic principles of marginal costs and marginal products of hiring an additional employee and of employing an existing employee for longer hours. They determine three effects of the increase in the overtime pay rate: a substitution of employment for hours in the short run; a scale effect in the short run which reduces the number of person hours required by the firm; and a substitution of capital for person hours in the long run. The magnitudes of these effects will determine the efficacy of overtime rate increases on employment.

Estimation of an overtime equation enabled the authors to determine that in the case of Australia an increase in the overtime rate from time and one-half to double time would create 9,000 more jobs, reducing the unemployment rate from 8.56 percent to 8.43 percent. The authors note that these estimates are maximum estimates which exclude the effects of skill bottlenecks, increased participation rates, indivisibility of workshifts, etc. Consequently, the conclusion drawn is that increasing the overtime rate would not hold much promise for increasing employment in Australia.

Calmfors, Lars and Michael Hoel. *Work Sharing, Overtime and Shiftwork*. Seminar Paper 336. Stockholm: Institute for Economic Studies, University of Stockholm, September 1985.

The authors attempt to determine through modeling of Keynsian and Classical regimes whether the employment effects of reduced work time are unambiguous given the firms' responses of overtime and shiftwork. The paper shows that under a Keynsian regime it may be necessary to combine an increase in overtime pay rates with a reduction of normal working time in order to get a significant employment effect, and that if the rate increase is large enough it will always be possible to achieve employment increases. In contrast, under the Classical regime it may be impossible to increase employment through a similar manner. Of course, these two examples were dealt with under simple models. The authors then discuss two modifications and how they affect the conclusions in the case of initial overtime. The first simplification was that cost of overtime is unchanged when working time is reduced, i.e. that the number of hours after which overtime rates are paid is left unchanged. The authors determine that in either regime, where the pay schedule shifts, then there is ambiguity as to whether the effects on employment are positive or negative. Furthermore, in the more complex models relative factor costs or relative productivities at the margin are affected so that firms substitute away from employment. Consequently, the authors are very doubtful that a reduction in working time will increase employment.

Ehrenberg, Ronald G., and Paul L. Schumann. "Compliance with the overtime pay provisions of the Fair Labor Standards Act." *Journal of Law and Economics* 25 (April 1982):159-81.

The authors deal with the noncompliance aspects with the overtime pay section of the United States FLSA in order to determine the extent of the effect of increasing overtime rates required by the FLSA on the expected employment gains from such an increase. The increase in overtime rates should increase rates of noncompliance since the costs of compliance are increased. To the objective of showing this the authors summarize some of the costs of noncompliance as: (1) the costs of increased labour turnover that result from nonpayment of legally required payments, (2) costs of getting caught violating the FLSA, (3) employer perceived costs in terms of penalties, (4) employee loss of premium pay, etc. The article illustrates and tests an econometric model of noncompliance, resulting in the conclusion that noncompliance is not a trivial matter in that almost 10 percent of employees who unmistakenly qualified under the FLSA for overtime premiums failed to receive any premium for overtime work, and estimates of partial coverage under the FLSA indicated that some 20 percent of employees similarly failed to receive any premium. The results imply that increased overtime rate effects on employment would be substantially moderated by noncompliance tendencies, but also imply that employees would be more likely to report noncompliance to the enforcement authorities.

Garbarino, Joseph W. "Fringe benefits and overtime as barriers to expanding employment." *Industrial and Labor Relations Review* 17 (April 1964):426-42.

This article deals with the "concern over the employment impact of overtime and of the cost of "fringe benefits"." The overtime record of production workers in manufacturing in the United States from 1956 to 1962 is examined and the following is found: industrial dispersion of overtime is substantial, the pattern of variation among industries is stable over time, and overtime differences between industries cannot be attributed to differences in production fluctuations. The principal conclusions of the author are: that it cannot be determined whether raising overtime rates would create benefits in employment sufficient enough to offset the cost effect for the economy as a whole; that fringe costs may be a cost barrier to expanding employment, depending on specifics of benefit packages and work practices; and that there is little evidence, for manufacturing as a whole, that working overtime has been substituted for adding employees to any great extent.

Griffith, Gerald N. "Fatigue and overtime: a myth toppled." *Management Review* 58 (October 1969):29-33.

"Contrary to many contractor's claims about daywork operations, there is no evidence of loss of efficiency from fatigue among workers who put in a ten-hour day or 60-hour week. All the available information presents no evidence that either overtime or a second shift need be automatically less efficient (assuming reasonable schedules of daywork hours per week) than a normal eight-hour-per-day, five-day-per-week shift."

Hoffman, Eileen B. "The four-day week raises new problems." *The Conference Board Record*, (February 1972):21-26.

"Current variations on the 4-day theme tend to fall into three categories. The compressed work week is a shorter work week with the same number of hours, resulting in longer working days. The reduced work week provides for a slight decrease in total weekly hours but still calls for longer days. The less work week is a shorter work week with the standard 7- or 8-hour day preserved. Companies considering a switch to a shorter work week say they are encountering four major obstacles: scheduling difficulties, union attitudes, employee reactions, and legal constraints. They may run into problems in coordinating shipments from suppliers and to customers, but the chief problems encountered are in compensation. Under most 4-day, 40-hour plans, premium pay for overtime is required by the Fair Labor Standards Act if employees must work over 40 hours a week; this makes the "fifth" day an overtime day. Many companies note a general decrease in overtime under the new schedule. For the most part, firms on the 4-day plan keep the same vacation policy, based on length of service. In certain cases the new schedules mean fewer paid holidays, and in other firms less holiday pay. Any employee absent under the 40-day week will be missing one-fourth of his work rather than one-fifth."

Leslie, Derek. "Hours and overtime in British and United States manufacturing industries: a comparison." *British Journal of Industrial Relations* 14 (July 1976):194-201.

This article deals with the observation that custom and practice requirements in British industries have increased overtime hours when weekly legal requirements of hours of work have decreased. The implicit extreme view of "custom and practice" is that overtime worked operates independently of market demand – that institutional factors alone determine overtime levels in Britain. The low-pay-long-hours relationship was assumed to be a proxy for custom and practice habits. Leslie tests the theory of custom and practice for Britain and the United States for the years 1961-1970. He finds that both the level of demand

and custom and practice are both jointly important in explaining hours of work at any point in time. Furthermore, the analysis finds that overtime work is highly productive. Interestingly enough the United States differs from Britain in that there is no determined relationship between low levels of pay and long hours in the United States, and in fact the reverse is found to be true.

Ontario. Task Force on Hours of Work and Overtime. *Working Times: The Report of the Ontario Task Force on Hours of Work and Overtime.* Toronto: Ontario Ministry of Labour, 1987.

This report summarizes numerous background reports (see bibliography) on the issue of hours of work and overtime and presents 22 recommendations. The report begins by outlining the mandate of the Task Force, its terms of reference or principles, and highlights of each chapter including the recommendations.

Chapter two covers patterns of hours of work and overtime, drawing heavily on the background report by Frank Reid. It presents historical data on the short and long hour workers and overtime or extra hours of employed paid workers from 1975-85, percent of workers working long hours by industry, occupation and sex.

Chapter three is brief, covering the evolution of Ontario's legislation on hours of work and overtime from John Kinley's background report. The discussion deals with the establishment and evolution of various design features of current legislation that could be changed to alter how legislation affects hours of work and overtime. The major influences considered are The Factories Act of 1884, Hours of Work and Vacations with Pay Act of 1944, the Employment Standards Act of 1968, and the post 1968 minor modifications with special note that since 1975 there have been no legislative changes to hours of work and paid time off provisions in Ontario.

Chapter four presents the exemptions, special overtime provisions and permits legislation in Ontario, drawing on a second background paper by John Kinley and on information from the Employment Standards Branch of the Ontario Ministry of Labour. The various exemptions and special considerations listed include: exclusions from the Act; exemption from all of the hours, overtime, public holiday, and vacation provisions; exemptions from specific hours, overtime, public holiday, and vacation provisions; special overtime provisions allowing overtime and the overtime premium to commence after 50-60 hours rather than the usual 44 hours; and permits to exceed maximum hours (three types: annual – 100 hours per employee, special – nature of the work, and industry permit). (One of the tables notes that 865,000 workers are covered by industry permits.) A number of interesting facts are noted. First, special permits are highly concentrated, in the transportation equipment sector, with 5 establishments accounting for over half of the permits and one third of hours granted. Exemptions exclude one quarter of the workforce. It is unlikely that conversion of overtime hours to regular hours by recalling laid off workers would have a significant effect on layoffs in 1983.

Chapter five deals with enforcement procedures and compliance, again drawing on John Kinley's paper, the Ministry of Labour, and briefs and transcripts from the public meetings. The chapter outlines the two principle procedures for enforcing the Employment Standards Act: the complaint procedure and routine audits. Of the 17,177 complaints received in 1985-86, 58 percent were resolved by correspondence, 72 percent were violations, and of the violations only 2.3 percent or 283 complaints were resolved through review requested by the employer. Furthermore, of the assessments for lost wage under the Act, overtime violations account for 4.5 percent of the total. Interestingly enough, routine investigations have declined from 1,304 in 1980-81 to 102 in 1985-86 due to the fact that only "about 35 percent of the routine inspections uncovered violations" (1985-86 data) and that investigations are carried out on a past experience basis.

Chapter six presents the legislation in various Canadian jurisdictions, covering such aspects as the right to refuse overtime, overtime and maximum hours legislation, compressed work week and averaging provisions, exemptions, time off, and Ontario's relative position. Ontario tends to have more exemptions and special regulations than other jurisdictions as a result of maximum hours of work requirements. Overall, Ontario lags behind the trend setting Federal jurisdiction and ahead of provinces eastward. Comparisons with western provinces are apparently difficult to make due to their policies of discouraging overtime through application of overtime premium after an earlier trigger and no maximum hours restrictions.

Chapter seven illustrates the European experience on the basis of Klaus Weiermair's background report drawn from the International Labour Organisation, and Cuvillier (1984), Hart (1984) and Kaeding (1986). The coverage includes the regulating of hours of work and overtime, exemptions, information and codetermination requirements, and changes in hours of work. It is noted that the question of relevance of the experience to the Canadian scene is foremost due to differences in bargaining structures and attitudes, and the composition of the labour markets and the economies. There is a rather extensive table showing the differences in legislation and collective agreements/practice. In a similar manner, chapter eight covers the United States experience.

Chapter nine presents the practices under collective bargaining in Canada, covering such provisions as scheduled worktime, overtime premiums, compensatory time, and paid holidays. This section draws from the background paper by Swimmer, Gunderson and Hyatt. Particular attention is paid to the restrictions on administering and encouraging overtime, as well as grievance arbitration experience on overtime. The analysis states that overtime issues are not a major source of grievance arbitration and that the type of cases indicate that overtime is highly desired by many while the right to refuse is similarly important. Consequently it appears that flexible work arrangements are desirable.

The main conclusion is that reducing the legislative standard to 40 hours after which overtime is paid and extending the right to refuse overtime would certainly reflect what is and has been occurring in collective bargaining.

Chapter ten covers the theoretical reasons for the existence of overtime. The reasons are grouped into five categories: short-run, temporary needs; spreading of quasi-fixed costs; skill shortages; uncertainty; and restrictions on the use of alternatives. This section notes that the fact that determinants of overtime have changed over the years may help explain the prevalence of overtime in spite of high unemployment, as well as explain the permanent amount of overtime that seems to be worked in some sectors, notably in automobile production. Furthermore, it is difficult to determine the temporary or permanent nature of many of the determinants' effects. Chapter eleven presents empirical evidence on employer reasons for overtime, the determinants of overtime and employee attitudes toward overtime. The evidence does not suggest that involuntary overtime is a prominent phenomenon in Ontario, but rather that most of the desired reduction in worktime is in the form of non-overtime reducing forms given the overtime premium.

Chapters twelve and thirteen deal with the job creation potential of overtime restrictions, presenting the theoretically expected relationship, premium increase effects, offsetting factors to employment gains, and detailed estimates of employment effects. This section draws heavily from the A.L. Robb and R.E. Robb background paper. Empirical evidence from Europe indicates that standard work week reductions reduce working hours less than the reduction in the work week and that employment effects are usually insignificant. Overall, the expected job creation potential is severely limited because cost increases reduce the demand for labour in general.

Chapter fourteen reviews the alternatives to overtime and to reduce unemployment. Among the overtime alternatives are shiftwork, job redesign, and upgrading and training which can result in new-job creation. Of course the mismatch between employer demands and new hire supply of skills is the key to job creation potential. Analysis shows that conventional job creating tools of government are unlikely to be sufficient. Worksharing is seen as a viable short-run alternative to reduce unemployment, and several forms are suggested: paid and unpaid leaves; early retirement; delayed school-leaving, etc.

Chapter fifteen presents the health and safety and social aspects of overtime, such as fatigue, longer exposure to dangerous substances, departure from the normal routine, longer operation of existing equipment, and lax supervision. There is a discussion of the relationship between overtime and absenteeism and the relevance of women's issues which draws from Roberta E. Robb's paper on *Women and Overtime*. Specifically, women would be less affected by legislation and therefore both work week reductions and employment gains. Also of relevance is the effect of overtime on the quality of work and family life.

The final chapter states the recommendations of the Task Force, one which "represents a judicious balance – a near consensus position of all the members of the Task Force.*" (* One dissent on Rec. 13 and 14 by Ms. Judith Andrew.) The Task Force recommends continuation of a version of the permit system since it has small compliance costs for firms, small regulatory costs to the Ministry, and permits Ministry discretion to limit hours with consultation while permitting overtime in special instances.(For a list of the recommendations please see the section of this reference paper that deals with the Donner Commission.)

Potter, Curtis J. "The use and abuse of overtime." *Supervision* 27 (September 1965):4-6.

This article discusses ways to lessen the overtime hours, since overtime can be not only a means of bypassing the need to increase employment, but also an indicator of some shortcoming in the manufacturing process. While overtime is the solution to the shortcoming, it can also create other problems. When overtime is traceable to a specific and alterable condition, the condition should be changed and monitored to prevent it from occurring again. Some of the common causes of overtime use are poor inventory control, machine breakdown, skill shortages, under-productivity or substandard quality. The author states that it is the role of the supervisor to recognize and solve these problems since overtime is a costly and inefficient way of curing a production problem.

Reid, F. *Overtime Work in Canada*. A Study for the International Labour Office. Toronto: Centre for Industrial Relations, University of Toronto, 1985.

This monograph presents the "extent and characteristics of overtime work in Canada ... a description of restrictions on the use of overtime imposed by legislation and negotiated in collective agreements ... [and] attempts to ascertain the main motivations for the use of overtime work [through summarizing] the debate at the provincial and national levels between labour organizations, management organizations and government concerning policy initiatives on the use of overtime." The first part of the paper covers the sources of overtime data in Canada: Statistics Canada's Employment Survey, Statistics Canada's Labour Costs Survey, and The Labour Force Survey. Part two covers Employment Standards legislation and collective agreement provisions concerning overtime. Part three presents management's viewpoint that it is prohibitively expensive or certainly more expensive to hire and train persons for unexpected or seasonal production demands than to pay overtime rates to existing employees. Also presented is the more complex union viewpoint and the government position of reconciling the two.

Schuster, M. and S. Rhodes. "The impact of overtime work on industrial accident rates." Industrial Relations 24 (Spring 1985):234-46.

This article "presents the results of an exploratory study investigating the effects of overtime work as a potential cause of industrial accidents". After a brief review of the theoretical framework of accident behaviour, accident proneness, fatigue theory, etc. the authors develop a model of the relationship between overtime and accidents. The model incorporates job factors, individual characteristics, organizational factors and overtime policy to explain skill fatigue and the consequence – accidents. The hypotheses included: positive relationships between accident severity and uninterrupted work span; accidents are more likely to have occurred to an overtime worker. The authors sampled three organizations and tested their hypotheses.

The analysis yielded a number of results. First, the correlation between accident severity and the longest span of uninterrupted overtime work days was significant. Second, workers who had an accident averaged 276 minutes of overtime the previous week whereas workers who had no accident averaged 210 minutes. Overall, for those having an accident, the longer the number of consecutive days of overtime and the greater the number of minutes for those consecutive days, the greater was the severity of the accident in terms of workdays lost.

Steele, G.R. "Legal and trade union limitations upon hours of work: the problem of overtime." *Economic and Industrial Democracy* 7 (February 1986):61-74.

The impact of legislation and trade unions upon hours of work in the United Kingdom and the United States is examined in this article and it is found generally to be secondary to that of market pressures. The author notes that in the United Kingdom "there is no legislative hindrance to hours worked by males, except in so far as the health safety of third parties has been considered." Long-term changes in overtime are said to be more directly attributable to trade unions putting limits on overtime rather than legislative initiatives. There is a brief detail of labour market pressures and the United Kingdom experience of four abrupt reductions in hours are interpreted to be the result of trade union pressures, an impetus affected by the rapid increase in money wages, low unemployment and fear of an imminent increase in unemployment.

Econometric analysis indicates that there was no direct correlation between earnings/basic earnings and a) fewer overtime hours and b) the percent of workers performing overtime. He further notes that this may be partially explained by the notion that well-organized occupational groups will achieve higher earnings and shorter basic hours and that shorter basic hours are more likely to be conceded where the employers' demand for overtime hours is relatively less important. In sum, overtime premium is found to not fully compensate workers. Where constraints on choice exist, trade unions attempt regulation through collective bargaining. "The argument that a cut in overtime hours would provide the basis for job creation during a period of chronic unemployment, is undermined by the necessity to reduce labor costs per unit of output."

VIII

Selected References

"Action on overtime." *Labour Research* 70 (May 1981):102-103.

Adams, Roy. "Employment standards in Ontario: an industrial relations systems analysis." *Relations Industrielles* 22 (1987):46-64.

Ahlburg, Dennis A. and Paul L. Schumann. "Increasing penalty rates for overtime and job creation in Australia." *Journal of Industrial Relations* 28 (1986): 102-108.

Alternative Work Patterns Project. *Alternative Work Patterns.* Golden, Colorado: Women's Center, Community College of Denver, 1978.

Ameci, Gina. "Overtime pay: avoiding FLSA violations." *Personnel Administrator* 32 (February 1987):117-18.

Automotive Parts Manufacturers' Association of Canada. *Submission by The Automotive Parts Manufacturers' Association of Canada to the Ontario Task Force on Hours of Work and Overtime.* Toronto, 1986.

Benimadhu, Prem. *Hours of Work: Trends and Attitudes in Canada.* Compensation Research Centre Report 18-87. Ottawa: The Conference Board of Canada, 1987.

Brennan, L., A.R. Gault, and M.E.J. O'Kelly. *A Study of Overtime Working in Ireland.* Volume 1. Galway, Ireland: University College.

Brown, D.J.M. and D.M. Beatty. *Canadian Labour Arbitration.* Aurora: Canada Law Book, 1984.

Bureau of National Affairs. *Collective Bargaining Negotiations and Contracts: Basic Patterns Clause Finder.* Section 57, Hours and Overtime. Washington.

Calmfors, Lars and Michael Hoel. *Work Sharing, Overtime and Shiftwork.* Seminar Paper 336. Stockholm: Institute for Economic Studies, University of Stockholm, September 1985.

CCH Canadian Ltd. *Canadian Labour Law Reports,* 3 vols. Don Mills, biweekly updates.

CCH Canadian Ltd. *Canadian Master Labour Guide: A Guide to Canadian Labour Law.* Don Mills, 1986.

"City of Toronto computers cut down on overtime work." *Labour Scene* (November 1982):60.

Cuvillier, Rolande. *Reduction of Working Time: Scope and Implications in Industrialised Market Economies.* Geneva: International Labour Organisation, 1984.

Dawkins, Peter K. "Non-standard hours of work and penalty rates in Australia." *Journal of Industrial Relations* 27 (1985):329-49.

"Denmark: proposed limits on overtime working." *European Industrial Relations Review* 76 (May 1980):8-10.

"EEC – limiting overtime." *European Industrial Relations Review* 80 (September 1980):14-15.

Ehrenberg, R.G. *Fringe Benefits and Overtime Behaviour.* Lexington, MA: D.C. Heath, 1971.

Ehrenberg, R.G., and P.L. Schumann. "Compliance with the overtime pay provisions of the Fair Labor Standards Act." *Journal of Law and Economics* 25 (April 1982):159-81.

Ehrenberg, R.G. and P.L. Schumann. *Longer Hours or More Jobs?. An Investigation of Amending Hours Legislation To Create Employment.* Ithaca, NY: New York State School of Industrial and Labor Relations, Cornell University, 1982.

Ehrenberg, R.G. and P.L. Schumann. "Compensating wage differentials for mandatory overtime." *Economic Inquiry* 22 (October 1984).

Ehrenberg, R.G., D.S. Hamermesh, and R.A. Hart. *Proceedings of a Symposium on Hours of Work and Overtime: Labour Market Issues.* Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Evans, A.A. *Hours of Work in Industrialized Countries.* Geneva: International Labour Office, 1975.

"Fewer hours equal more jobs." *Economic Notes* 52 (No.3, 1984):1-2,6.

"$5 million pay award hits Hojo." AFL-CIO News 27 (October 9, 1982):16.

Fottler, M.D. and F.W. Schaller. "Overtime acceptance among blue-collar workers." *Industrial Relations* 14 (1975):327-36.

Garbarino, Joseph W. "Fringe benefits and overtime as barriers to expanding employment." *Industrial and Labor Relations Review* 17 (April 1964):426-42.

Gaunt, John. "The relationship between overtime and safety." *Professional Safety* (July 1980):11-15.

Gottlieb, E.M. *Overtime Compensation for Exempt Employees.* New York: American Management Association, 1960.

Gower, D. "Characteristics of persons with long workweeks." *The Labour Force* 42 (September 1986):87-112. (Statistics Canada, cat.no.71-001).

Griffith, Gerald N. "Fatigue and overtime: a myth toppled." *Management Review* 58 (October 1969):29-33.

Gunderson, Morley. *Labour Market Economics: Theory, Evidence and Policy in Canada.* Toronto: McGraw-Hill Ryerson Limited. 1980.

Hart, R.A. *Shorter Working Time: A Dilemma for Collective Bargaining.* Paris: OECD, 1984.

Hobbs, L.A. "Working 8 hours a day." *Personnel Administrator* 27 (June 1982):16.

Hoffman, Eileen B. "The four-day week raises new problems." *The Conference Board Record,* (February 1972):21-26.

Hollman, R.W. "Overtime working: employee willingness." *Employee Relations* 2 (No. 5, 1980):26-29.

"Hours of work – the new labour force survey." *Industrial Relations Review and Report* 286 (1982):9-11.

"Hours of work: hard facts." *Economic Notes* 52 (No.3, 1984):3.

Hours of Work in Relation to Health and Efficiency. Albany: The Division of Women in Industry and Minimum Wage, State of New York Department of Labor, August 1941.

"Implementing the shorter working week in the chemical industries." *Industrial Relations Review and Report* 269 (1982):9-13.

Jamal, M. and R.L. Crawford. "Consequences of extended work hours: a comparison of moonlighters, overtimers, and modal employees." *Human Resource Management* 20 (Fall 1981):18-23.

Kaeding, K. "Adaptation in the labor market with regard to reductions in individual working time." *Social Europe* 1 (1986):45-62.

Kinley, J. *Current Administration of Legislated Standards on Hours of Work* *and Overtime.* Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Kinley, J. *Evolution of Legislated Standards on Hours of Work and Overtime.* Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Kopke, Gunter. *Working Time in Western Europe in 1982.* European Trade Union Institute, Info 3. Brussels, 1983.

Kriebel, D. "Occupational injuries: factors associated with frequency and severity." *International Archives of Occupational and Environmental Health* 50 (1982):209-18.

Labour Arbitration Cases. Agincourt: Canada Law Book, semi-monthly.

Laudadio, L. and M. Percy. "Some evidence on the impact of non-wage labor cost on overtime work and employment." *Industrial Relations* 28 (No.2, 1973):397-404.

Lazar, F. *Hours of Work and Overtime: U.S. Experience and Policies.* Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Leonard, J. "The regulations and use of overtime in the United States." Mimeo, 1983.

Leslie, Derek. "Hours and overtime in British and United States manufacturing industries: a comparison." *British Journal of Industrial Relations* 14 (July 1976):194-201.

Leslie, D. and J. Wise. "The productivity of hours in U.K. manufacturing and production industries." *Economic Journal* 90 (March 1980):74-84.

"Less overtime, more jobs: Ireland." *European Industrial Relations Review* 77 (1980):20-21.

"Limiting overtime: EEC." *European Industrial Relations Review* 80 (1980):14-15.

Lynch, Philip. "The abuse of overtime." *Industrial Society* 67 (December 1985):22-25.

"Methods to contain overtime." *Industrial Relations Review and Report* 330 (1984):2-6.

Nedzynski, Rafael. *Working Time in Western Europe in 1982.* Brussels: European Trade Union Institute, 1983.

Nussbaum, J.M. and D.E. Wise. "The overtime pay premium and employment." In *Work Time and Employment.* Special Report No.28. Washington D.C.:

National Commission for Employment Policy, 1978.

Ontario. Ministry of Labour, Employment Standards Branch. *Excess Hours "Special" Permits Issued for 1983 Under the Employment Standards Act.* Toronto, 1985.

Ontario. Task Force on Hours of Work and Overtime. *Working Times: The Report of the Ontario Task Force on Hours of Work and Overtime.* Toronto: Ontario Ministry of Labour, 1987.

"Overtime – restricting its level." *Industrial Relations Review and Report* 270 (1982):2-8.

"Overtime – the British industrial disease." *Labour Research* 69 (April 1980): 78-79.

"Overtime premia: little change over six years." *Industrial Relations Review and Report* (1984):2-10.

"Overtime working in Ireland: extracts from a report to the Irish government and the EEC commission." *European Industrial Relations Review* 77 (June 1980): 24-28.

Palmer, E.E. *Collective Agreement Arbitration in Canada.* 2d ed. Toronto: Butterworths, 1983.

Potter, Curtis J. "The use and abuse of overtime." *Supervision* 27 (September 1965):4-6.

"Proposed limits on overtime working: Denmark." *European Industrial Relations Review 76* (May 1980):8-10.

"Protective laws in need of reform: Netherlands." *European Industrial Relations Review* 75 (April 1980):9-10.

Reid, F. *Hours of Work and Overtime in Ontario: The Dimensions of the Issue.* Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Reid, F. *Hours of Work and Overtime Policies to Reduce Unemployment.* Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Reid, F. *Overtime Work in Canada.* A Study for the International Labour Office. Toronto: Centre for Industrial Relations, University of Toronto, 1985.

"Reduced working time and overtime limits: Portugal." *European Industrial Relations Review* 118 (November 1983):10-12.

"Report on overtime stresses voluntary approach: West Germany." *European Industrial Relations Review* 153 (October 1986):17-18.

"Report on reduced working time: France." *European Industrial Relations Review* 77 (June 1980):14-15.

Robb, R.E. and M. Gunderson. *Women and Overtime*. Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Rones, P.L. "Response to recession: reduced hours or jobs?" *Monthly Labor Review* 104 (October 1981):3-11.

Schuster, M. and S. Rhodes. "The impact of overtime work on industrial accident rates." *Industrial Relations* 24 (Spring 1985):234-46.

"Shift work 2: reducing working hours." *Industrial Relations Review and Report* 308 (1983):2-7.

Shore, Jane. *Alternative Work Patterns: Implications for Worklife Education and Training*. Worker Education and Training Policies Project. The National Institute for Work and Learning, 1980.

"A shorter working week in 241 companies." *Social and Labour Bulletin* (June 1980):204-205.

Steele, G.R. "Legal and trade union limitations upon hours of work: the problem of overtime." *Economic and Industrial Democracy* 7 (February 1986):61-74.

Swart, J. Carroll. *A Flexible Approach to Working Hours*. New York: AMACOM, 1978.

"Sweden – the working time debate." *European Industrial Relations Review* 90 (July 1981):22-23.

"The Swedish working time act." *European Industrial Relations Review* 103 (August 1982):22-24.

Swimmer E., M. Gunderson and D. Hyatt. *Collective Bargaining, Hours of Work, and Overtime*. Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Taylor, D.E. and E.S. Sekscenski. "Workers on long schedules, single and multiple jobholders." *Monthly Labor Review* 105 (May 1982):47-53.

Teague, B.W. *Overtime Pay Practices for Exempt Employees*. Research Report No. 797. New York: The Conference Board, 1981.

"Trends in working hours." *Employment Gazette* 90 (November 1982):477-86.

Turner, H. *The Relationship Between Overtime Hours and Industrial Accidents: A Review of the Literature*. Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

"Unions rethink strategy on overtime: United Kingdom." *European Industrial Relations Review* 88 (May 1981):6-7.

Van Ginneken, W. "Employment and the reduction of the work week : a comparison of seven European macro-economic models." *International Labour Review* 123 (No.1, 1984):35-52.

Warrian, P. *Hours of Work and Overtime: Case Studies.* Background Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

Weeks, D.A. *Overtime Pay For Exempt Employees.* Studies in Personnel Policy No. 208. New York: National Industrial Conference Board, 1967.

Weiermair, K. *Hours of Work and Overtime: The European Experience.* Backround Report to the Ontario Task Force on Hours of Work and Overtime. Toronto: Queen's Printer, 1987.

White, Michael. *Case Studies of Shorter Working Time.* Report No. 597. London: Policy Studies Institute, 1981.

White, Michael. *Shorter Working Hours in Practice.* Report No. 631. London: Policy Studies Institute, 1984.

Work in America Institute. *New Work Schedules For a Changing Society.* A Work in America Institute Policy Study. Scarsdale, New York: Work in America Institute, 1981.

"Working time and jobs in the UK: extracts from the TUC consultative document." *European Industrial Relations Review* 88 (May 1981):24-28.

"Working time laws in 10 Countries: international." *European Industrial Relations Review* 78 (July 1980):13-18.

Appendix

List of Public Submissions to the Ontario Task Force on Hours of Work and Overtime

Name/ Organization	Submission Number
Abraham, Ernst	B-004
Aerospace Industries Association	G-025
Aggregate Producers Association	G-027
Al's Cartage	G-001
Angus, Iain, M.P.	Y-015
Arriscraft Corp.	G-061
Automotive Parts Manufacturers Association of Canada	G-058
Banks, John	Y-001
Beavers Dental Division – Sybron Canada	G-026
Bell Canada	Y-010
Booth, William	B-003
Bulloch, John V.	Y-005
Camco Inc.	G-050
Campbell Red Lake Mines	G-014
Canadian Auto Workers	R-029
Canadian Auto Workers Local 303	R-033
Canadian Auto Workers Local 1967	R-034
Canadian Brotherhood of Railroad, Transport and General Workers	R-006
Canadian Business Equipment Mfrs. Association	G-053
Canadian Federation of Independent Businesses	G-064
Canadian Manufacturers Association	G-019
Canadian Organization of Small Businesses	G-054
Canadian Paperworkers Union	R-003
Canadian Prestressed Concrete Institute	G-072
Canadian Tooling Manufacturers Association	G-037
Cassidy, Michael	Y-009
Centerline (Windsor) Ltd.	G-045
Centerline (Windsor) Ltd. (Employees)	Y-011
Central Ont. Industrial Relations Institute	G-055

Name/ Organization	Submission Number
Champion Road Machinery	G-051
Chrysler Canada Ltd.	G-012
Class Freight Lines Ltd.	G-063
Cohen, Dr. Steven	Y-014
Communications & Electrical Workers of Canada	R-014
Concept Fire Protection Supply (Ont.) Ltd.	G-071
Construction Owners Council of Ontario	G-041
Council of Ontario Contractors Association	G-052
Council of Printing Ind. of Canada	G-021
Coward, Lawrence	Y-012
CUPE – Ontario Hydro Employees Union – Local 1000	R-021
De Clute, J.	Y-003
Electrical & Electronic Mfrs. Associations of Canada	G-020
Employees of Arriscraft Corp.	Y-021
Energy & Chemical Workers Union Local 593	R-035
ERB Transport	G-068
Falconbridge	G-010
Falconbridge	G-036
Faul, David	
Ferguson, K.	Y-020
Ford	G-024
Fraser, Bruce	Y-002
General Motors	G-039
Greater Ottawa Truckers Association	G-022
Hamilton & District Chamber of Commerce	G-015
Hamilton & District Labour Council	R-027
Havco Foods	G-047
John Hill & Associates	B-003A
Hotels, Clubs, Restaurants, Taverns Employees' Union – Local 261	R-009
Huff, Dan	Y-017
Hughes, Frank	G-009
Inco	G-006
Informetrica Ltd.	G-046
International Brotherhood of Electrical Workers	R-005
IBEW – Local 105	R-020
IBM Canada Ltd.	G-042
Jimmy "D" Cloverdale Transport Ltd.	G-062
Johnston, William E.	Y-019
Kenyon, Roger	Y-007

Name/ Organization	**Submission Number**
Kirsch Cooper Inds.	G-002
Landscape Ontario (Horticultural Trades Assoc.)	G-070
Loder – Sutherland	G-013
Mackinnon Transport Ltd.	G-060
Mathews, Dinsdale & Clark	
Ready Mix Concrete Association of Ontario	G-056
Metro Toronto Road Builders Association	G-057
McCulloch, John	Y-005
Messer, Gerd	Y-004
Metro Toronto Board of Trade	G-016
National Amalgamation Local Union of Airline Workers	R-028
Nippissing Area Council	R-002
Northern Telecom	G-040
Oakville & District Labour Council	R-004
d'Oliveira, J.A.	B-002
Ontario Automobile Dealer Association	G-011
Ontario Chamber of Commerce	G-018
Ontario Federation of Labour	R-028A
Ontario Forest Industries	G-048
Ontario Hydro	G-030
Ontario Mining Association	G-023
Ontario Motor Coach Association	G-032
Ontario Nurses Association	R-036
Ontario Nurses Association	G-007
Ontario Trucking Association	G-004
Ontario Urban Transit Association	G-059
Ontario Public Service Employees Union	R-022
Ottawa & District Labour Council	R-013,R-023
Peel, Eva	Y-006
Peters, Dr. Douglas	Y-008
Philips Planning & Engineering Ltd.	G-035
Porcupine Mine Mgs. Group	G-044
Private Motor Truck Council of Canada	G-049
Provincial Building & Construction Trades Council of Ontario	R-021
Rae, Bob/ Mackenzie, Bob	G-069
Ready Mixed Concrete Association of Ontario	G-030
Real Women	B-005
Reitz Moving Ltd.	G-065
Retail Council of Canada	G-033

Name/ Organization	Submission Number
Ridge, Mary	B-001
Rio Employee	Y-018
Robert Hunt Corp.	G-003
Royle, Ron	Y-017
Sabo, Michael	Y-005A
Sargent, John A.	Y-016
Service Employees International Union – Local 204	R-018
Sharpe, Andrew – Department of Finance	G-028
Stelco	G-031
Sudbury & District Chamber of Commerce	G-017
Sudbury Mine, Mill & Smelter Workers Union – Local 598	R-011
TCG Materials Ltd.	G-008
Thunder Bay Chamber of Commerce	G-043
T.T.C.	G-034
Ultrahaul Inc.	G-066
United Autoworkers – Local 1535	R-008
United Autoworkers – Local 199	R-010
United Autoworkers – 1325 (Stratford)	R-025
United Paperworkers	R-026
United Steelworkers Association – Local 6500	R-015
United Steelworkers Association – Local 1005	R-016,R-017
United Steelworkers of America – Local 6320	R-031
United Steelworkers of America – District 6	R-032
Walker Bros. Quarries Ltd.	G-005
Weigel Transport Ltd.	G-067
Windsor District Labour Council Emp./Unemp. Solidarity Group	R-019
Windsor & District Labour Council	R-030
Wolfe, Harry M.	Y-013

Industrial Relations Centre

The Industrial Relations Centre, established in 1937, serves the industrial relations community through pursuit and publication of policy oriented research; provision of continuing education for labour relations practitioners; and the maintenance of a specialized research reference library. The Centre also serves as the "home base" for the multi-disciplinary Master's Degree Program in Industrial Relations offered through the School of Industrial Relations. Through these functions, the Centre serves as a bridge linking the University with the outside industrial relations community.

Research

The major focus of research in the Centre is on applied and policy oriented analysis of trends and emerging issues in the broader industrial relations field. The research is carried out by the Centre's professional research staff, faculty associates and by visiting research scholars.

Continuing Education

The Centre's continuing education program includes both seminars for industrial relations practitioners and conferences for researchers, teachers and scholars.

Research and Publications Subscription Program

The Research and Publications Subscription Program is the main vehicle of support and financing of the Centre's research and related activities. The Program offers, for a modest annual fee, a package of services designed to provide up-to-date information and analysis of emerging trends and developments in the broad field of industrial relations.

Enquiries

The Director
Industrial Relations Centre/
School of Industrial Relations
Queen's University
Kingston, Ontario
Canada K7L 3N6
Telephone (613) 545-2193